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HERBERT B. ADAMS, Editor

History is past Politics and Politics are present History.—*Freeman*

STUDIES IN STATE TAXATION

WITH PARTICULAR REFERENCE TO THE
SOUTHERN STATES

BY GRADUATES AND STUDENTS OF THE
JOHNS HOPKINS UNIVERSITY

EDITED BY
J. H. HOLLANDER, PH. D.
Associate Professor of Finance

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TO

HERBERT B. ADAMS

PREFACE

The five essays contained in the present volume have a common origin in a series of informal class reports prepared by students of the Johns Hopkins University in connection with a course of graduate instruction upon American commonwealth finance. With a view to supplementing the inadequate material available, certain members of the class undertook to examine and describe the finances of a group of states. Each investigator selected his native state or a state with whose economic life he was in a measure familiar. The problem of taxation was made the central point of investigation.

The results obtained were so interesting and significant as to suggest presentation in more deliberate and detailed form. Accordingly, additional material was gathered and a uniform plan of statement was adopted. Accident or circumstance prevented the completion of all of the studies originally undertaken, but the five here published are typical both in character and in result of the entire inquiry. Attention was centered, as will appear, upon the Southern States—Kansas being, with respect to fiscal problems, essentially within that category.

The essays will, it is hoped, prove useful as contributing fresh and instructive material for the study of American commonwealth taxation. In state as in municipal finance, the arrangement and presentation of essential data must

serve as a preliminary both to scientific study and to practical reform. The way was early blazed by a few earnest workers, and at no time has there been the dearth of accessible subject-matter which the student of municipal economics laments. But the field of state taxation is extensive and conditions change quickly, and the utility of a series of descriptive studies made simultaneously and upon an identical plan by competent investigators is self-evident.

If the several essays possess any particular significance and if there be any unity underlying the volume, it is as emphasizing the impracticability of any universal application of commonly accepted principles of tax reform. It is upon the fiscal conditions of the more advanced commonwealths, where abuses are greatest, both in kind and in degree, that the attention of writers on American public finance has hitherto been centered. The more careful investigators have been explicit in stating that whatever conclusions might be reached were applicable only to similarly circumstanced societies. But the caution has not always been respected, and the science of finance like the science of economics is exposed to the danger of mischief-making as a result of rule-of-thumb application of qualified theory. Detailed acquaintance with the fiscal experience of a group of less highly developed states, where corporate organization is limited and intangible wealth a minor element, can not fail to prove serviceable in this connection.

In addition to the acknowledgment of special aid from various sources which the author of each essay has made, the editor desires to express cordial appreciation of suggestion and encouragement received from his friend and col-

league, Professor Sidney Sherwood, and from Mr. N. Murray of the Johns Hopkins Press. The inscription of the volume to Professor Herbert B. Adams, the editor of the series in which it appears, is insufficient recognition of the stimulus and aid received from this source.

J. H. HOLLANDER.

Johns Hopkins University,
December 23, 1899.

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TAXATION IN MARYLAND[1]

By THOMAS SEWALL ADAMS

Industrial Characteristics

Maryland is a border state, industrially as well as politically, dividing the Atlantic states into two distinct groups and partaking of the industrial characteristics of both.[2] Northern and northwestern Maryland resembles Pennsylvania: wheat, hay and corn constitute the principal products; there are extensive mining interests; the population is dense, and negroes are scarce. On the other hand, southern Maryland is closely allied, both in political and industrial characteristics, to the south. Population is sparse, tobacco is still one of the chief products, and in two of the southern counties the negroes outnumber the whites.

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[1] In the preparation of the following pages special aid has been received from Hon. Robert P. Graham, State Tax Commissioner, and Mr. J. A. J. Medcalf of the Appeal Tax Court of Baltimore City.

[2] The medial position of Maryland with respect to those economic qualities which influence a system of taxation is illustrated in the following table (see "Statistical Abstract of the Eleventh Census," second edition):

	True wealth, *per capita.*	Assessed wealth, *per capita.*	Percentage of true wealth assessed for taxation.	Average size of farms, (acres.)	Percentage of unimproved land.
United States	$1036	$407	39	137	43
North Atlantic Div...	1202	626	51	95	32
Maryland	1041	507	49	121	35
South Atlantic Div...	579	255	34	134	58

With respect to those resources which furnish useful criteria of the taxable capacity of a community, there is perhaps no more representative state in the Union. Nature has been particularly generous to Maryland in the distribution of gifts. In the northwestern counties of the state, coal and iron mining are carried on with success. In the central counties are found some of the finest marble, granite, and sandstone quarries in the United States. In the eastern portion, Chesapeake Bay offers an inexhaustible source of wealth in its varied shell and fish products. The concurrence of the figures for Maryland and the United States expressing true wealth *per capita*, was shown in the preceding foot note. This consilience is well maintained in the other groupings of the census reports, which are accurate enough for the present purpose. In 1890 the total (" true ") value of real and personal property in Maryland was $1,085,473,048; the total value of farm products, $26,443,364; of manufactured products, $171,842,593; of mineral products, $5,089,447; of products of fisheries, $5,654,024. Among the fifty-one territorial districts differentiated in the census returns,[1] Maryland stood nineteenth with respect to the amount of real and personal property, twenty-ninth with respect to the value of farm products, twenty-fourth with respect to the value of mineral products, fourteenth with respect to the value of manufactured products, and second with respect to the value of the products of fisheries.

Passing from this general comparison to Maryland itself,

[1] Forty-five states, five territories and the District of Columbia. The comparison in the text will suffice to give a useful idea of the relative standing of Maryland, without having the various sources of wealth reduced to a *per capita* basis. Assuming that the necessary expenditures of a state are roughly determined by the size of the population, Maryland should occupy a central rank with respect to the various sources of wealth in order to have an average tax-paying capacity. In 1890 Maryland stood twenty-seventh among the fifty-one states and territories with respect to population, the average population per district being about 1,235,000, that of Maryland, 1,042,000.

the most striking characteristic of the state in this connection is the predominant importance of Baltimore City. So far as taxation is concerned, Baltimore is of more importance than the rest of the state combined. In 1890 nearly one-half of the whole population of Maryland lived in Baltimore; the next census will probably show that more than one-half lives in that city. In 1898 the total assessed value of property in Maryland was about $603,000,000. Of this, more than one-half, $332,000,000, was located in Baltimore. Of the receipts from taxes other than the property tax, Baltimore contributes very much more than one-half.

Excluding Baltimore City, the interests of the state are chiefly agricultural. Hay, wheat, and corn are the chief crops. But the production of staple agricultural products is undergoing a relative decline. This is shown nowhere so clearly as in the production of tobacco. In 1884, 41,811 acres were devoted to tobacco in Maryland, and the total crop was valued at $2,281,615. In 1896, 15,995 acres were planted in tobacco and the crop was worth $398,915. The plantation, the feudal manor, the slaves have passed. Tobacco is no longer king.[1] The production of export staples is declining; plantations are being cut up into truck farms, and the farmer directs his efforts toward supplying the wants of urban residents engaged in trade and manufactures. In many of the farming districts, canning factories have sprung up, and there are often as many people and as much capital dependent upon the prosperity of the factories as upon the success of the farms.[2] Agriculture has become a function of commerce and manufactures.

[1] In 1896 the potato crop was worth nearly twice as much as the tobacco crop.

[2] ". . . . this canning industry has grown of late years to enormous proportions, and has given a great stimulus to truck farming. Maryland has been the leading state, and Harford the leading county, for this industry until 1891, when from various causes New Jersey took the lead, to yield it again, however, in 1892." "Maryland, its Resources, Industries and Institutions" (Baltimore, 1893), p. 175.

In 1890 there were but six states in the United States in which the density of population was greater than in Maryland. In that year 42 per cent. of the whole population (1,042,390) lived in Baltimore City; 46 per cent. in the five towns of more than 5000 inhabitants, and 51 per cent. in the thirty-five towns possessing more than 1000 inhabitants. Of the total male population, 33 per cent. were engaged in agriculture, mining and fisheries; 3 per cent. in professional service; 18 per cent. in domestic service; 20 per cent. in trade and transportation; 25 per cent. in manufacturing and mechanical industries.

From this brief survey it may reasonably be inferred that the sphere of public activity in Maryland is moderate, not so extensive as in the richer states of the north, less restricted than in the poorer states of the south and southwest. Owing to the medial position of the state, we may expect its tax system to share the characteristics of taxation in both the northern and the southern states, and from the predominance of Baltimore City we may infer that the main dependence will be placed upon the commercial and manufacturing, rather than upon the agricultural classes.

General Finances

The Fund System. The preparation of the budget, the collection of taxes, and the general superintendence of fiscal affairs in Maryland, are entrusted to a comptroller, who is elected at the general state election for a term of two years, and who receives a salary of $2500 per annum. The greater part of the revenues of the state are received and disbursed according to the fund system. The state tax-rate of 17¾ cents on each hundred dollars of assessed value, is made up of certain partial rates or levies, the proceeds of each of which are strictly segregated in corresponding funds or accounts. These funds cannot legally be used to defray any other than the respective charges for which they were collected. Many of the non-tax receipts are also credited to specific funds and cannot be used to meet gen-

eral expenses. Thus, oyster fines, oyster licenses, etc., go to the "Oyster Fund" which must be expended in the maintenance of the "oyster navy" and for other allied purposes determined by law. The administrative expenses of the government cannot be defrayed out of the proceeds of the property tax, but must be paid out of the license receipts, inheritance and franchise taxes, etc. The unnecessary rigidity of the fund system is a standing cause of complaint on the part of the comptrollers, but it has never been abandoned. In times of stress the law is sometimes disregarded by borrowing from one fund for the use of another, but this is the exception and not the rule.

Expenditures. Some idea of the extent of the state's fiscal activity may be gathered from a summary of the expenditures of 1898. In that year there were expended for the purposes indicated, the following amounts:

Education	$1,155,815.00
Legislative and executive departments	371,851.22[1]
Sinking funds	281,000.00
Interest on debt	301,049.58
Charities	189,266.88
Militia	182,563.00
Judicial department	151,503.07
Penal and reformatory institutions	78,000.00
Industrial development	26,475.46[2]
Health	14,325.98
Maintenance of buildings	10,591.01
Miscellaneous	8,735.22
Book-transfers, cities and counties	464,925.08[3]
Balance	566,351.30
Total	$3,802,452.80

[1] I have been unable to differentiate the expenditures of the legislative and executive departments.

[2] The item "Industrial development" is made up of the expenditures of the immigration bureau, the expense of conducting the industrial bureau, etc.

[3] The item "Book-transfers, cities and counties" is made up of two transfers to the free school fund from other funds, plus $404,355.72 returned to Ellicott City and Baltimore as their share in the high liquor licenses collected in those two cities. This money probably never goes to the state treasury.

As this paper is devoted principally to taxation, no elaboration of these features can be given. Some idea of the division of function between state and counties may be gathered from a comparison of the state and the local tax-rates. The state rate has been 17¾ cents on the hundred dollars for ten years. The average county rate on the same valuation was $1.32 per hundred in 1897.[1] The total *ad valorem* rate would consequently be about $1.50 per hundred, of which 88 per cent. was local and 12 per cent. state. The *ad valorem* rate, as calculated in the federal census of 1890, was $1.54.

Of the 17¾ cents levied by the state, 12½ cents is levied for the maintenance of the public schools and the purchase of school books. The proceeds of this tax are divided among the counties and the city of Baltimore in proportion to their respective numbers of inhabitants between the ages of five and twenty years. This is of course supplemented by local school taxes. The school tax in Baltimore City, for example, was 45¾ cents in 1898.

Revenues. A word of explanation is perhaps necessary in regard to the terminology here employed. The several taxes have been differentiated in accordance with the classes of society upon which they bear. The line of cleavage is personal: between the "subjects" not the "objects" of taxation. Thus, that part of the general property tax collected from corporations has been included under the heading "corporation taxes."

It has been thought best to treat pure fees as non-tax receipts. When a fee more than pays the cost of the service for which it is charged, however, the excess constitutes a true tax. The item "excess of fees" is of this nature. The receipts for the fiscal year 1898 were as follows:

[1] A weighted mean was taken, the several local rates being weighted in accordance with the population of the respective districts. The Baltimore City rate is included, as Baltimore is not in any county.

Quasi-private receipts

Dividends on bonds and stocks	$100,962.85
From industries carried on in state institutions.	36,991.61
Interest on public moneys	16,850.83
Income from public property	11,377.58
Fines and forfeitures	8,763.51
Fees	5,708.11
Miscellaneous receipts	631.94
Military emergency fund	125,000.00
Balance	707,138.58

Tax receipts

Property tax	$1,092,899.85
License taxes	913,876.57
Corporation taxes	515,690.31
Inheritance tax	134,279.90
Excess of fees	64,363.99
Tax on commissions of executors and administrators	49,875.54
Miscellaneous taxes	15,041.63
Total	$3,799,452.80

In view of the practice, more often encountered in municipal than in state finance, of raising a large portion of the ordinary revenue by borrowing, very great interest attaches to the proportion of revenue raised by loans. It will be shown below[1] that in the twenty-one years, 1877-97, Maryland borrowed 12 per cent. of the total amount of revenue raised in that period.

The proportion of the tax to the non-tax receipts is a question of less importance, but still worthy of notice. In 1898, 27 per cent. of the total revenue came from sources other than taxation. The average importance of the non-tax receipts is, however, greater than this. The proportion for 1898 is unduly low because no loans were floated. To secure useful statistics on this point a long period of years must be taken, and according I have calculated the proportion of the non-tax receipts to the total revenue in each of the twenty-one years between 1877 and 1897 inclusive. The

[1] See page 25.

average proportion for these years was 41 per cent. The total revenue raised in this period was nearly $67,000,000, of which the non-tax receipts amounted to more than $27,000,000.

Excluding the two extraordinary items, military emergency fund and balance, the largest item which now appears regularly among the non-tax receipts is the annual mortgage payment of $90,000 from the Northern Central Railroad Company. The next largest receipt, $27,871.84, is from the Maryland Penitentiary. In 1897 the receipts from the latter institution were $10,000 less, $17,724.45. A study of the remarkable development of this source of revenue would furnish a valuable illustration of the power of able management to make such institutions self-supporting.

When one recalls the immense investments of Maryland in private enterprises, it is amazing that the returns from these investments should now be so insignificant. One by one the dividends have ceased. Until 1877 the annual payments from the Susquehanna and Tide Water Canal Companies, and from the Chesapeake and Ohio Canal Company, constituted items of great importance in the revenues of the state. But these payments have been long since discontinued. In 1897 the comptroller reported more than $8,500,000 of unproductive stocks; the unpaid interest on these holdings would increase this amount to about $30,000,000. During the fiscal year 1898, the annual dividend of $27,500 from the Washington Branch of the Baltimore and Ohio Railroad ceased. With the transfer of this stock to the unproductive list is written the last chapter of the history of state aid to internal improvement projects in Maryland—a history of consistent failure and repeated loss.

Relative Importance of the Several Tax Receipts. From the standpoint of practical finance few questions are of greater importance than that of the relative productivity of the several forms of taxation. An examination of the receipts from the various state taxes for the years, 1877-1898, shows that the order of importance indicated in the

classification of receipts on page 19 is substantially accurate, the only difference being that on the average of the twenty-two years noted, the tax on the commissions of executors and administrators is more important than the excess of fees. During the twenty-two years, 1877-1898, 44 per cent. of the total tax receipts came from the property tax, 33 per cent. from licenses, 15 per cent. from corporation taxes, 4 per cent. from the inheritance tax, nearly 3 per cent. from the tax on commissions of executors and administrators, nearly 2 per cent. from excess of fees, and less than 1 per cent. from the remaining taxes.

During the first half of the present century the revenue of the state was derived chiefly from licenses and it was not until after the Civil War that the receipts from the property tax began to show a regular excess over the proceeds of the licenses. The average importance of the license taxes as determined by the receipts for the twenty-two years, 1877-1898, shows no signs of abatement. During the first half of this period, 1877-1887, licenses contributed 29 per cent. of the total tax receipts, and the property tax 48 per cent. During the second half, 1888-1898, the license receipts constituted 36 per cent., the property tax 40 per cent. With the growing tendency to impose higher licenses upon the liquor traffic, there is no reason to anticipate a diminution in the relative importance of this source of revenue.

The corporation taxes, on the contrary, are not increasing in importance as rapidly as might be expected. The receipts from this source are indeed increasing, both relatively and absolutely. But considering the number of entirely new corporation taxes which have been adopted in the last twenty years, the results are somewhat disappointing. From 1877 to 1887, 13 per cent. of the total tax-receipts came from corporations. During the period 1888-1898 this proportion rose to 16 per cent.

The receipts from the inheritance tax and the tax on commissions of executors and administrators vary greatly from year to year. The actual revenue from each source is

increasing, the relative importance of each is decreasing. In the case of the inheritance tax the decrease is so slight as to be very doubtful. In the tax on the commissions of executors, however, the tendency is marked. From 1877 to 1887 this tax yielded nearly 5 per cent. of the total tax receipts. During the period 1888-1898 this proportion was less than 2½ per cent.

The excess of fees returned each year to the state treasury is increasing both in amount and in proportion to the total receipts from taxation. In itself the item is unimportant: $46,000 were received from this source in 1897, $64,000 in 1898. But as an indication of the condition of the general financial system of the state, the item is very important. An increase in the relative importance of the amount of fees returned means that the public offices of the state are being managed with greater economy and the officials are being held to a stricter account.

The State Debt. The financial condition of the State of Maryland, distinguishing state from local conditions, is healthy. The tax-rate is low, the debt small, the sinking funds large and well managed, and the interest payments normal. In general the prospects are decidedly encouraging.

The first great internal improvement undertaken by the federal government, the Cumberland or National Road, lay partly within this state, and the example was too much for the people of Maryland. During the second and third decades of the century they were affected by the mania for internal improvement in a particularly acute form. Marvelous expectations were entertained; canals, turnpikes, railroads were to be built and the state treasury was to be enriched by the profits of these enterprises, while the people thrived on the trade they were to bring. Between 1832 and 1839 the state expended nearly twelve millions in encouraging internal improvement, and large returns were confidently expected in a few years.

The crisis of 1837 found Maryland in a state of industrial

demoralization, with an immense debt and a people ignorant of the meaning of state taxation. The situation was faced boldly at first. The state declared its intention of paying all obligations in sound money and a stringent tax law was passed in 1841. But it was the courage of ignorance. The taxes could not be collected, and in January, 1842, the state failed to make the annual interest payment upon the debt. Had it not been for this experiment in internal improvement, Maryland would probably have no funded debt to-day.

The above facts have been given for the purpose of explaining the genesis of the state debt and the revival of direct taxation in 1841. Only a few words can be devoted to the further history of the debt. Owing largely to the strenuous efforts of George Peabody and Governor Pratt, the accumulated interest was funded and the state put upon a sound financial basis again. Governor Thomas, who was inaugurated in January, 1848, was soon able to report that the credit of the state had been wholly rehabilitated and that foreign investors were buying Maryland bonds freely in the London markets. In 1851 a new constitution was adopted. That the people of Maryland had learned a wholesome lesson is shown by the insertion in this constitution of the following section, whose influence in the financial history of Maryland has been almost incalculable. With the exception of the clause enclosed in brackets and the addition of one unimportant provision, this section is retained in the present constitution:

" No debt shall hereafter be contracted by the Legislature unless such debt shall be authorized by a law providing for the collection of an annual tax or taxes sufficient to pay the interest on such debt as it falls due, and also to discharge the principal thereof within fifteen years from the time of contracting the same, and the taxes laid for this purpose shall not be repealed or applied to any other object until the said debt and the interest thereon shall be fully discharged [and the amount of debts so contracted and remaining unpaid shall never exceed one hundred thousand

dollars]. The credit of the State shall not, in any manner, be given or loaned to or in aid of any individual, association or corporation, nor shall the General Assembly have the power, in any mode, to involve the State in the construction of works of internal improvement, or in any enterprise which shall involve the faith or credit of the State, or make any appropriations therefor. And they shall not use or appropriate the proceeds of the internal improvement companies, or of the State Tax now levied, or which may hereafter be levied, to pay off the public debt, to any other purpose, until the interest and debt are fully paid, or the sinking fund shall be equal to the amount of the outstanding debt; but the Legislature may, without laying a tax, borrow an amount, never to exceed fifty thousand dollars, to meet temporary deficiencies in the Treasury that may be necessary for the defense of the State." [1]

From 1851 until the Civil War the debt was kept well in hand; but during the war the debt was greatly increased by loans necessitated by the peculiarly exposed condition of the state. The importance of the later funding operations, as compared with the general finances of the state, is indicated in the table on the following page.

From this table some concrete idea of the course of the state debt may be gathered, as well as of the amounts and relative importance of the interest payments. In the twenty-two years, 1877-1898, Maryland raised an aggregate revenue of more than $70,000,000. Of this, a little less than $8,000,000, or 11 per cent., was raised by borrowing. In the same period, the aggregate expenditures of the state amounted to about $57,000,000, of which 19 per cent. was devoted to the payment of interest upon the debt.

The decline of the debt and the variation of the annual interest payment throughout this period are very encouraging. In 1898 each of these items was less than one-half of what it had been in 1877. During the ten years, 1877-

[1] Art. III, sec. 22, Constitution of 1851.

1886, the annual interest payment was on an average 30 per cent. of the annual expenditures, and the average net debt was nearly $7,000,000. During the ten years, 1889-1898, the average proportion of interest payments to total expenditures was less than 12 per cent. and the average net debt was less than $3,500,000. It is proper to add that what we have called the "net debt" is obtained by sub-

Years.	Total receipts.	Loans.	Gross debt.	Sinking funds and other assets	Net debt.	Total expend-itures.	Interest pay-ments.	Ratio of int. pay'ts to total expend-iture.
	000's omitted.	000's omitted.	000's omitted.	000's omitted.	000's omitted.	000's omitted.	000's omitted.	Per cent.
1877..	$2,511	$219	$10,759	$4,362	$6,396	$2,113	$645	31
1878..	2,693	571	10,773	4,736	6,037	2,489	653	26
1879..	2,330	269	11,260	3,585	7,674	1,774	622	35
1880..	2,564	....	11,277	3,649	7,628	2,051	674	33
1881..	2,510	....	11,258	3,695	7,562	1,759	643	37
1882..	2,677	....	11,269	3,863	7,406	2,038	620	30
1883..	2,736	....	11,270	3,996	7,274	1,754	675	38
1884..	4,712	1,686	10,966	3,993	6,973	3,875	578	15
1885..	2,949	....	10,970	4,519	6,451	2,202	555	25
1886..	2,742	.. .	10,961	4,847	6,113	2,125	565	27
1887..	3,057	463	10,961	5,299	5,661	2,375	552	23
1888..	2,542	....	10,371	4,715	5,655	2,010	473	23
1889..	2,599	....	10,371	6,031	4,399	2,109	466	22
1890..	6,351	3,400	10,691	6,279	4,412	5,684	459	8
1891..	3,494	413	10,722	6,846	3,876	2,953	375	13
1892..	3,548	100	8,685	5,603	3,082	3,066	324	11
1893..	3,016	....	8,685	6,025	2,660	2,467	280	11
1894..	3,175	....	8,685	5,303	3,382	2,685	280	10
1895..	3,159	....	8,685	5,680	3,005	2,455	280	11
1896..	3,861	613	9,285	5,946	3,339	2,945	280	10
1897..	3,688	....	9,285	6,336	2,949	2,981	301	10
1898..	3,802	....	9,285	6,252	3,033	3,286	301	9
Totals:	70,716	7,734	....	....	....	57,144	10,601	19

tracting from the debt the productive assets of the state, which are given in the column headed "sinking funds and other assets." According to state law no bonds, stocks or securities of any kind may be counted as assets unless actually bearing interest. It thus happens that the state treasury often has valuable assets which cannot be deducted

from the liabilities in the report of the comptroller. This circumstance explains the apparent increase of the net debt from 1897 to 1898. In 1897 the stock of the Washington Branch of the Baltimore and Ohio Railroad owned by the state ($550,000) was paying interest and hence could be subtracted from the gross debt in computing the net debt. In 1898 this stock was unproductive and could not be accounted as an asset. The actual market value of the stock, however, is sufficient to bring the net debt of 1898 below that of 1897.

According to the latest statement furnished by treasury officials, the gross debt of the state amounts to $6,400,000, of which $5,800,000 bears three per cent., and $600,000 three and one-half per cent. interest. The present debt of Maryland is so small that it could probably be wiped out by disposing of the stocks and bonds owned by the state.

Development of Taxation

First Period, 1632-1776. One of the prime motives of colonization in America was the desire on the part of the sovereign to secure additional sources of revenue for himself or for favorite courtiers. This force was not absent from the many worthier motives that led to the establishment of the palatinate of Maryland. The imposition of taxation, therefore, began almost with the planting of the colony itself. In 1641 a "subsedye," and an export tax for the "better support" of the Lord Proprietor, were passed.[1] These were followed at short intervals by the imposition of licenses, tobacco and tonnage duties, export and anchorage taxes, etc., payable for the most part to the Lord Proprietor, but in a few instances in the 18th century, levied for the King of England, notwithstanding the fact that he had expressly renounced the right of taxation in the provincial charter.

[1] Most of the material of this sketch has been taken from the unsigned historical sketch published in the Report of the Maryland Tax Commission of 1888.

Our principal concern, however, in this first period of development—that comprehended between the settlement of the province and the outbreak of the Revolutionary War—is with the direct taxation levied for the payment of the public expenses. Such taxation was almost invariably voted according to the fund system, levied by "even and equal assessment" upon every poll, irrespective of wealth or ability, and paid in tobacco. The "subsedye" of 1641 provided that every freeman and free woman and every servant belonging to any one out of the Province, should pay fifteen pounds of tobacco for every person over twelve years of age belonging or residing in his or her family.

In 1642 the expenses of the burgesses and officers of the General Assembly were levied upon the respective hundreds which they represented. At first this constituted the principal public charge and the only valid excuse for direct taxation; but as the population and importance of the palatinate grew, additional levies were made. In 1650 every freeman was assessed four pounds of tobacco and cask for the "Muster Master Gen'rall's ffee"; in 1662 twenty-five pounds of tobacco *per capita* were voted for the support of the Lieutenant General; in 1692 forty pounds of tobacco were levied upon each freeman for the maintenance of the clergy, and in 1756, after a bitter struggle, a land tax was imposed.

The origin of the present fund system is here clearly seen in the gradual development of public functions. As the sphere of state activity grew, additional levies were made for every new expense. Each hundred paid the expenses of its burgess, the levy being made by two inhabitants selected by the freemen of the hundred and the tax collected by the sheriff. These levies were made without regard to wealth or ability to pay.[1] With one or two exceptions the archaic mode of levying by poll was strictly adhered to, and the injustice of this procedure led to the

[1] See, however, the acts of 1642 and 1756; *loc. cit.* pp. cxiii and cxxviii.

insertion in the first state constitution, of that important article which will be considered hereafter: "The levying of taxes by poll is grievous and oppressive, and ought to be abolished; paupers ought not to be assessed for the support of the government."

Second Period, 1776-1841. The second period in the development of taxation in Maryland begins with the Revolutionary War and extends to 1841, when the disastrous experiments with internal improvements necessitated a reconstruction of the system of taxation. In the interval between the fall of the proprietary government and the creation of the state government, the Provincial Convention resorted to still more archaic forms of taxation than those which had so embittered the people. Contribution lists were passed from hand to hand and the citizens "invited" to come to the aid of the new democracy. Refusal to contribute was treated as a declaration of Toryism and the names of the stiffnecked recalcitrants were advertised for universal opprobrium. After the inauguration of the state government in 1777, vigorous fiscal measures were taken: new licenses were required, an income tax and a heavy property tax were levied, and an efficient machinery of assessment and collection was devised. The era of modern taxation had set in.

Direct taxation for state purposes was, however, of short duration. When the military demands of the war had ceased, the property tax tended to disappear and after 1812 was only levied five times, and then for small amounts. The public expenses were paid by the receipts from licenses, most of which date from this period, and from fines, taxes on transfers, etc.[1] In the few levies that were made, corporations were taxed exactly like individuals. It was, however, customary to impose a franchise tax upon banks, usually 20 cents on each $100 of paid-up capital.

During this period, great pains were taken to equalize

[1] The notorious stamp tax upon bank circulation was imposed in 1817.

the assessments of certain kinds of property. Silver plate was valued at the same rate per unit of weight throughout the state; there was a fixed rate for the valuation of land in each county and the state tax upon real estate was apportioned among the counties in relative proportions determined by multiplying the several county rates by their respective amounts of taxable land. Until the outbreak of the Civil War slaves were assessed at uniform rates determined by age and sex. Except with respect to slaves, all these attempts at equalization were abandoned in the act of 1841.

The most important feature of this period, perhaps, is found in the development of the local organs of taxation. The regulation of local taxation had originally been vested in county boards called Levy Courts, Commissioners of the Tax, etc. These boards were appointed by the Assembly or by the Governor and the Council, and in the beginning had no authority to levy local taxes unless specifically authorized by the legislature. During this period there was a continuous growth in the direction of local home rule and by the end of the period the two boards mentioned had been consolidated into the Board of County Commissioners, the members of which were elected by the votes of the county and were clothed with the general powers of levying taxes and revising assessments which they now possess. The corresponding board for Baltimore City, the Appeal Tax Court, was not created until 1841.

From 1826 until 1841 no property tax worthy of notice was levied by the state. At the end of the second period, it had become evident that the policy of internal improvement was a colossal failure, and the people were confronted with the alternative of repudiating the debt or submitting to onerous taxation. Fortunately the latter plan was accepted, and the burdensome act of 1841 was passed. It aroused a storm of opposition. In seven counties the tax was not levied and collectors were not even appointed. It was not until 1844 that the act could be put into general operation.

Third Period, 1841-1898. Details of the growth of taxation in the last period, 1841-1898, are presented in the succeeding pages. In brief, this period is marked by the abandonment of "equalization"; by the extension of exemption; by the differentiation of corporation taxes; by a decline in the relative importance of license taxes; by the addition of inheritance, mortgage and other new taxes, and by a firmer application on the part of the courts of Article XV of the Declaration of Rights.

General Property Tax

Rate, Levy and Collection. The first real property tax in Maryland was imposed in 1756. The first general property tax was levied in 1777. The rate of the general property tax since 1888 has been 17¾ cents on each one hundred dollars of assessed valuation. The rate is made up as follows:

10½ cents for maintenance of the public schools.
2 cents for the purchase of free school books.
4⅛ cents for the redemption of outstanding debt.
⅛ cent for the redemption of the insane asylum loan.
1/16 cent for the redemption of the penitentiary loan.

Taxes are levied by the county commissioners of the several counties and by the mayor and city council of Baltimore City before the third Tuesday of April, and are due on or before the first day of January next succeeding. Tax collectors are appointed by the above boards and are paid a per centage of their collections, such remuneration not to exceed five per cent. of the annual collections in the counties, nor two per cent. of the annual collections in the city of Baltimore. The following deductions for prompt payment are allowed: five per cent. if paid before September 1; four per cent. if paid before October 1; three per cent. if paid before November 1. Taxes in arrear bear interest at six per cent., are liens upon property, preferred debts in the settlement of estates, and may be collected by the ordinary processes of distraint and attachment.

One of the salutary provisions of the Maryland law is the levy of local and state taxation upon the same basis. While assessors are appointed from the assessment district which they are to assess, the office is not elective, and these provisions tend to prevent much of the inequality between county and county which might result if separate assessments were made for state and local purposes, or if the assessors were elected by popular vote. Whatever inequalities of valuation exist, appear not between different territorial units, but between the different classes of property. One exception to this statement, however, must be recorded. Land in Baltimore City is undoubtedly assessed higher in proportion to its real value than in the counties. This is due to the peculiar ground rent system of Baltimore, and is intensified by certain exemptions granted to residents of those suburbs of Baltimore included in the "Belt." The latter exemptions, however, will largely disappear in 1900.

Another noticeable feature is the stability of the tax-rate; it has varied only one cent in twenty years. During the period 1876-1896, the assessment did not vary greatly either in character or severity, so that the burden upon property—if such a concept be of any service—has been practically unchanged throughout. The benefit of a stable rate is unquestioned; whether this stability is real, however, is open to question. One assertion in favor of its reality can be safely made: the rate has not been preserved by paying current expenses with loans which accumulate as funded debt. On the other hand, there has been a noticeable increase in the number of taxes and in the rates of the various corporation taxes. The general burden of taxation is greater than it was twenty years ago, but it is more equitably distributed. Taken all in all, the stability of the property rate is a favorable feature of the system and the habit of maintaining it unchanged has had a wholesome influence upon the legislature. It is now a political necessity making for economy in expenditures and restraining the hasty

extension of state activity. The desirability of such restraint is unquestioned as long as the character of our General Assembly remains unchanged.

Taxable Forms of Property. The property tax is the essential commonwealth tax in Maryland. The Declaration of Rights asserts that every person ought to contribute his share of the public taxes in proportion to his actual worth in real and personal property. The property tax is thus a constitutional requirement and if strictly enforced would permit of no exemption. Nevertheless, all sorts of exemptions have been granted, the courts reserving the right to annul the exemption if it appears contrary to a beneficial public policy and insisting upon a strict interpretation of all acts of exemption. The question as to what property is taxable will be best answered by an enumeration of the persons and property exempt.

Persons assessed for less than $100 and the following classes of property are exempt: United States bonds, stocks, or evidences of indebtedness; property of the United States; property of the state; property of any county; property of any incorporated city or town; churches; the furniture, grounds and parsonages of churches; grave-yards and cemeteries not conducted for profit; crops or produce in the hands of the producer or his agent; provisions and fuel held for consumption; tools and implements of mechanics or artisans, worked exclusively by hand; farming implements worth less than $300; wearing apparel; fish in the hands of packers and not sold; hospitals, asylums, charitable or benevolent institutions with adjacent grounds not exceeding forty acres; buildings, furniture, equipment, and libraries of incorporated educational or literary institutions with adjacent grounds not exceeding forty acres; personal property of corporations whose shareholders are subject to taxation; shares of stock in railroads worked by steam and subject to gross-receipts tax; book-accounts, bills receivable, and evidences of such debts held by persons engaged in commercial business.

The list quoted above is taken almost verbatim from the official tax-list. It should be stated in addition that money and bank accounts are not taken into account in estimating taxable wealth. Ground rents are also exempt. There are a few other important exemptions which will be noted in the section devoted to corporation taxes.

There has been much discussion in Maryland concerning the exemption of church and educational property. Conservative writers have complained that rich churches which spend the proceeds of their large endowments in ostentatious forms of worship, and so-called benevolent institutions whose ends are largely personal and exclusive, escape taxation, while the small property holders of Baltimore City, for instance, are paying a gross public charge of two and a half per cent. upon their little accumulations.

The question is a delicate, probably an unimportant one, and is best left perhaps to the instincts of the people. In deciding the question many states have effected a compromise by exempting the property of such institutions within certain limits; in Maryland, for instance, no taxes are paid on landed property which does not exceed forty acres. Assuming that the principle of exemption within certain limits is correct, it seems that a value limit would be far more equitable. Forty acres may be worth any amount from forty dollars up to four hundred thousand dollars, and the same is true of the plant and buildings of fraternal orders, churches, benevolent institutions, etc. The wishes of the people in this matter, so far as they can be discerned in past legislation, would be better carried out by assessing the institutions and then exempting them within certain limits—$20,000 or $30,000 perhaps.

To the present writer there seems no logical line of division between the richer and poorer institutions of the kinds named. There may be a good reason why benevolent and fraternal institutions should be taxed and churches exempt; but it is difficult to see why a church with one hundred members and ten thousand dollars' worth of prop-

erty should be exempt while another church with one thousand members and one hundred thousand dollars' worth of property should pay taxes. Neither should contribute, or both.

Commercial houses pay taxes upon their stocks of merchandise and no deduction for debt is allowed. The exemption of book-accounts has been permitted only since 1896. The insertion of this provision in the list of exemptions accomplished a very desirable reform. The abstract justice of allowance for debt is seldom questioned. On the other hand, it is just as unquestionable that such exemption breeds a host of abuses. Assuming that in the long run the book-accounts of commercial houses will equal their debts, the exemption of book-accounts affords a practical mode of deducting debts without inviting abuse. There is no inducement to manufacture book-accounts for the pleasure of having them exempted. The passage of this law has also removed a large amount of deception—to avoid the harsher term "perjury"—since before its passage practically nobody listed book-accounts.

Assessment. The machinery of assessment consists of (1) a State Tax Commissioner who is appointed by a board consisting of the governor, treasurer and comptroller, and who is charged with the general supervision of assessment, and, in particular, with the assessment and management of the corporation taxes; (2) boards of county commissioners in the respective counties, empowered to hear appeals and to revise valuations; (3) the Appeal Tax Court in Baltimore City, clothed with like powers; (4) a corps of seven permanent assessors in Baltimore City appointed by the mayor and city council. In addition, the clerks of the courts, registers of wills, and the commissioner of the land office render special services for which they receive special remuneration in addition to their regular salaries. These services consist principally of the collection of the inheritance, mortgage, and executors' commissions taxes, and in notifying the appeal boards of transfers and alienations of real property.

There has never been any provision for general periodic assessment in Maryland. Since 1812 there have been only five general assessments. The county commissioners and the Appeal Tax Court of Baltimore are directed to revise the valuations of real property every two years, and the reassessment law of 1896 provided for a biennial listing of personalty. But this law was repealed soon afterwards, and in 1898 the reassessment of personalty was made only in Baltimore City.

The method of appointing the appeal boards is important because of its bearing upon the uniformity of valuation throughout the state. The county commissioners are elected by ballot. While this mode of election may operate to make the commissioners unduly susceptible to the interests of their constituents, the defect is partly remedied by the fact that the county revenue must be raised on the state assessment. There seems to be no remedy for the evil mentioned above.[1] The possibility of inequality in assessment between county and county is not due to the method of choosing the appeal boards; it is inherent in all *ad valorem* taxation. Elect the appeal boards by popular vote and they are unduly influenced by the interests of the men who vote for them. If they are appointed by the governor they are unduly influenced by the members of the political party to which they belong. This has been illustrated again and again in Baltimore City. The nearest approach to a remedy would probably be found in a constitutional provision requiring boards of revision and appeal to be appointed by the governor and made up of an equal number of members from the two leading political parties. To accomplish this change in the counties would be difficult, since the boards of county commissioners constitute the general governing bodies in the counties, and as such, should be elected by popular vote. The Appeal Tax Court of Baltimore, however, is appointed by the mayor and

[1] As is so graphically shown in Mr. Benton's paper, the remedy is certainly not to be found in state boards of equalization.

second branch of the city council, and there would be no difficulty in the way of making this board bi-partisan. It is not only desirable that this board should be bi-partisan but past experience has shown that it is absolutely necessary.

In the assessment of 1896 the power of altering assessments was vested in Baltimore in temporary boards of control and review. These boards were appointed by the governor and consisted of three members, one of whom, the law provided, "should belong to the political party which casts the next largest number of votes at the last general election in the State." The assessors in this assessment were in main appointed by the governor.

The state—excluding Baltimore City—was divided into fifty-seven assessment districts. In each of these assessment districts the governor appointed two assessors-at-large, who were selected from the two leading parties from nominations made by the state central committees. The county boards appointed one assessor from each election district, and the latter, in conjunction with the two assessors-at-large, assessed the election district from which he was appointed. In Baltimore all the assessors were appointed by the governor. Assessors were required to be registered voters, taxpayers, and residents of the county or city for which they were appointed for at least two years before the appointment. These provisions, together with the peculiar position of the Republican party, which was newly victorious and on probation, conspired to produce a relatively creditable assessment.

In the act of 1896 provision was made for a biennial assessment of personal property; but in 1898, as already stated, this assessment was made only in Baltimore City. The assessors were appointed by the Appeal Tax Court, and as no provision for minority representation was made, the appointments were greatly influenced by political motives.

The assessment was a failure. "The members of this

court are not favorably inclined to the biennial assessment of personal property," wrote the Judges of the Appeal Tax Court of Baltimore in their annual report for 1898. "The gain is not sufficient to warrant such frequent visits to the homes of our citizens, and the annoyance which it gives them to recount and schedule their personal possessions. A fraction of the time and money spent in that direction, if devoted to the revision of the property already on the tax-books would secure as full results as those now accomplished by going over the ground anew every two years." In the last few days the Board of Estimates of Baltimore City has confirmed this opinion.

There is no reason to complain, as the tax commission of 1888 did, that general assessments are so infrequent in Maryland. The annual or biennial assessment is a troublesome and costly proceeding which benefits nobody but the political hanger-on who is appointed assessor. The assessment of 1898 in Baltimore City cost more than $30,000, while it had practically no effect in changing the taxable basis. There can be no doubt of the wisdom of the recommendation that a permanent corps of trained assessors be substituted for the biennial assessment of personalty.

Valuation. In listing and valuing property each taxpayer is suplied with a printed form upon which he is directed "to specify as far as may be practicable" the amounts of the different kinds of property which he owns, or manages as trustee, guardian, etc. After having enumerated his property he is directed to enter opposite each item his own estimate of its present value. The property so described must be valued "at its full market value without looking to a forced sale." Opposite the owner's valuation is placed the valuation of the assessor. Real estate and houses are described and assessed on another printed form, and the valuation of the two is kept separate.

"For the purpose of securing a full disclosure of all taxable property," the State Tax Commissioner is authorized to print on the blank forms "such interrogatories as

he may deem proper." The assessors are not at all inquisitorial in their work and until now the Tax Commissioner has made scant use of his privilege of interrogation. The only printed questions besides those mentioned concern the amount of property owned in the preceding year, the assessment thereon, and the amount of insurance carried. The last question has aroused some opposition from business men who quite generally refuse to answer it to the assessor. The law, however, clothes the assessors with the right to administer oath, and they are authorized to propound "any question which they may deem necessary to enable them to ascertain the location, kind, and character of the personal property in question." Personal property is enumerated under ten heads, and the owner's valuation is almost invariably accepted if he shows any disposition to be fair in the matter. There is some reason to believe that in the counties at least better results would be reached if a more extensive list of inquiries were used.

The boards of county commissioners and the Appeal Tax Court in Baltimore, act as permanent boards of appeal and revision. There are no other boards of equalization in Maryland. The capital stock of Maryland corporations is assessed by the State Tax Commissioner, and an appeal from his valuation lies to a board composed of the Comptroller, Treasurer, and Tax Commissioner. Railroads pay state taxation upon gross receipts alone. The amount of these receipts is determined by the Tax Commissioner. Railroads pay local taxes upon real and personal property, which the ordinary assessors of the various local bodies assess.

Bonds of Maryland corporations are assessed to the individual owner. For almost fifty years the taxes upon such bonds were collected from the corporations, and by them charged to the accounts of the individual owners. But all bonds in Maryland are now assessed to the individual owner at their market value, though it is provided that "such upon which no interest shall be paid shall not

be valued at all." Upon this valuation the regular rate of state taxation is paid. Local taxation upon this valuation is, however, limited to 30 cents on the $100. Shares of stock in corporations outside of Maryland are valued in the same way and pay only 30 cents upon the $100 as local taxation. The explanation of the changes noted is simple. Many corporations do not know the residences of their bondholders and it is illegal to tax bonds of Maryland corporations owned and held outside the state. The limitation of local taxation upon bonds and stocks of foreign corporations owned in Maryland was made with a view of keeping within the state a desirable class of wealthy citizens, and of reducing the amount of double taxation.[1]

Personal property in Maryland is assessed to the owner at his residence, which is held to be in the district where he resides for the greater portion of the year. Real property or personal property permanently located is assessed at its situs. Bridges forming part of the roadbeds of railroad and turnpike companies, are valued at the same rate that any other equal portion of such roadbed is valued. Special provision is now made in Maryland for the valuation of distilled spirits in the hands of distillers or proprietors of bonded warehouses. Such spirits are assessed and valued by the State Tax Commissioner, and not by the local assessors. Upon his valuations—reported to the proper local authorities—the ordinary property taxes are imposed. Where the distillery or warehouse is owned by a corporation with capital stock divided into shares, the assessed value of the distilled spirits which they own and have paid taxes on, is taken into account as a credit in assessing the capital stock.

[1] Since the enactment of this limitation of local taxation upon bonds and stock of foreign corporations, the national banks located in Maryland have refused to pay more than thirty cents per $100 on their capital stocks, claiming that by the terms of the federal statute permitting the taxation of national banks, they should be given the most favored terms accorded to "other moneyed capital." The district court has recently decided against the banks.

Critical Suggestions. It is unnecessary to dwell upon the inherent defects of the property tax. In Maryland, as everywhere else, the great burden of taxation falls upon land; a large amount of personalty escapes; and small property holders are overtaxed, in comparison with the large property holders whose bills are considerable enough to enable them in some measure to dictate their own terms, and also in comparison with the immense number who pay no taxation at all in virtue of the $100 minimum. In the opinions of those best acquainted with taxation in Maryland, real estate in the counties is assessed at a rate varying from fifty to one hundred per cent. of its true value. In Baltimore City small holdings are assessed at their full value. Large landowners are usually able to make some compromise by which, to say the least, they obtain a more favorable valuation. On the whole, real property is fully assessed in Baltimore.

The most serious defect of the property tax is the escape of personalty. Tax officials assert that there is no mode of reaching private securities and that intangible wealth in general is not listed. Personally I am inclined to believe that the escape of personalty, in Maryland at least, is exaggerated. The reasons for this belief follow:

I. The large ratio which the assessed value of personalty bears to the total assessed value of real and personal property. In 1897 real estate and improvements were assessed at $455,000,000, personal property at $196,000,000. The personal property assessed is thus about 43 per cent. of the realty and about 30 per cent of the total wealth of the state.

I am not at all willing to admit that the personal property owned in Maryland and subject to taxation is very much more than 43 per cent. of the realty and 30 per cent. of the total wealth. Definite facts in the matter are hard to obtain, but taking into account the immense amount of personal property which is not subject to taxation, I am inclined to infer from these figures that the personal property of the state is assessed nearer its true value than real prop-

erty. A large majority of the persons assessed for more than $100, have, I believe, the greatest portion of their wealth invested in houses or land. The first impulse of a thrifty man who has accumulated a little, is to invest his savings in house or lot, or both. And in the aggregate, those who have accumulated a little are of more importance than those who have accumulated large fortunes and have the major portion of their wealth invested in securities.

II. The immense amount of personal property which is not subject to taxation. A large portion of the personalty which critics have in mind when they condemn the property tax because of the escape of personalty, is legally and justly exempt. The realty exempt by law is insignificant; the amount of personalty exempt is enormous. Subtract from the total personal property of the community, all cash in hand, all mortgages, bank deposits, bonds and all other evidences of indebtedness issued by the United States, book accounts and all evidences of such indebtedness, the stock debt of Maryland, the stock debt of Baltimore, and that portion of the capital stock of every corporation which is represented by these securities; exempt every individual, the actual *market value* of whose property is less than $100,[1] the tools of artisans, the crops and implements of farmers, wearing apparel, jewelry habitually worn, provisions and fuel for consumption, the furniture of churches, the libraries and laboratories of educational institutions, the paraphernalia of lodges; deduct besides, ground rents, the personal property of corporations, shares in national banks located outside of Maryland, the capital stock of domestic building associations, that portion of the capital stock of corporations which represents land and investments in other Maryland corporations, that portion of the capital stock of railroads which is represented by land, roadbed and bridges, and the wonder is not that the remaining personal property constitutes only thirty per cent. of all property, but that it

[1] Such property is practically all personal, since no one who owns land, owns less than $100 worth.

constitutes as much as 30 per cent. The credits or claims to a given mass of material property may be multiplied indefinitely. This reduplication of securities increases with the development of trade and commerce. Writers have dwelt upon this increase of personal "property" without considering the fact that it is an ideal of the law, imperfectly realized it is true, to exempt the shadow where the substance is taxed. The result of the multiplication of credits is the multiplication of exemptions.

The critics of the property tax have been over-anxious to gather illustrations and proofs of preconceived notions. It is acknowledged that the amount of personalty has increased in the last thirty years. It is just as true, however, that the need of public revenue has increased, and that the vigilance of tax officials and the morality of the average citizen have not relaxed. When under these circumstances the assessment rolls show that realty has increased 125 per cent. while personalty has increased but 8 per cent., as they did in California for the interval 1880-1896, the reasonable course, it seems, would be to search for other causes than the degeneration of the public conscience and the complete breakdown of the property tax.

III. The first and most comprehensive explanation of the relative decline of personalty is the improvement which has taken place in the tax laws. There is no doubt that in the last thirty years an immense amount of double taxation has been remedied either by legislative enactment or by court decision. Twenty-five years ago both the property and the capital stock of corporations were assessed at their full market value.[1] In 1877, however, the Court of Appeals decided (48 Md. 188) that this method of assessment involved double taxation, and the legislature, in conformity with the decision, enacted that thereafter the value of the

[1] It is only fair to add, however, that this was done only for a few years in Maryland. I cite the instance for its bearing upon the general aspect of the question: it is probable that in other states the practice continued for a long period.

real property should be substracted from the value of the capital stock. In 1897 the real property of Maryland corporations was assessed at $34,000,000. Under the preceding law this $34,000,000 would have been included in the personalty column, as well as in the realty column.

Prior to 1874 corporations received no credit for investments in other Maryland corporations. At present they are permitted to deduct such holdings from the value of their capital stock. Trust companies, which hold stock debt of Baltimore, for instance, pay no taxes, state or local, upon it, and in addition subtract its assessed value from the value of their own stock. The total amount of such credits in 1897 was more than $6,000,000. Thirty years ago this was listed as personalty. At that time the state also listed mortgages and the bonds of Maryland corporations owned outside of Maryland. All these securities have now been taken from the personalty list. The amount thus exempted is enormous.

To the above list of personal property which has been taken from the assessment rolls in the last thirty years, might be added the book accounts of commercial houses, formally exempted in 1896. It would be useless to go on with this enumeration, as practically no statistics of the relative growth of personalty can be offered. It is submitted, however, that, during the period in which the amount of assessed personalty is alleged to have undergone a relative decline, there has been an extensive growth in the exemption of personalty, accompanied by a qualitative change in the general system of taxation, by which many classes of industry, such as railroads, insurance companies, express companies, have been relieved of the necessity of listing their property, and in lieu thereof, charged with the payment of gross-receipts and other similar taxes. And the greater part of the property of such companies is what would be called " personal."

IV. The fourth reason for the belief that the escape of personalty has been exaggerated, is based upon the few

statistics of assessed personalty that we have. The differentiation of real and personal property in the reports upon the taxable basis, has been introduced only recently in Maryland. In consequence, we are forced to fall back upon the reports of the Eleventh Census. In 1890, according to the section devoted to Maryland in the census report upon "Wealth, Debt and Taxation," the assessed value of real property in Maryland was $411,900,246; that of personal property, $117,594,531. In 1897, according to the last Report of the State Tax Commissioner, real property was assessed at $454,926,856, and personal property at $195,661,081. In the interval 1890-1897, then, the assessed value of personal property increased 66 per cent., while that of real property increased only 10 per cent. Whether these figures are trustworthy, and whether similar results would be obtained from a longer series of years, are questions which I am unable to answer. But the figures, such as they are, do not sustain the contention that a major proportion of personalty is escaping.

I have no desire to be taken as a champion of the property tax. The escape of personal property, particularly private securities, is a serious matter which cannot be lightly dismissed. On the other hand, it is evident that the magnitude of such evasion has been exaggerated. While one can scarcely find a reference to the property tax unaccompanied by some startling illustration of the escape of intangible property, these illustrations contain no reference to the increasing exemption of bonds and stocks due to decisions of the courts, no account of non-interest bearing and other unproductive securities which are legally exempt. A large proportion of the securities which are said to "escape" are mere liens upon tangible property upon which the proper taxes are paid.

The worst defect of the property tax in Maryland is the absence of any provision for the exemption of debt. Whatever be the practical difficulties of debt exemption, nothing short of that reform will ever satisfy our innate ideas of

justice. That a man holding an estate worth $50,000 and mortgaged for $40,000 should pay both state and local taxation upon $50,000, is wrong, ethically and economically.

There is a practical remedy for this evil which would, I believe, do away with a large amount of double taxation and at the same time bring to light the greater portion of those securities which now escape the assessor. The creation of a debt implies the creation of a corresponding credit. Exempt debts on the conditions that the debtor bring acknowledgments of such debts from the corresponding creditors and that such creditors are taxable, and an immense amount of intangible property will be brought to light. This expedient would necessitate some sort of interstate agreement by which cognizance could be taken of debts contracted between citizens of different states. An interstate agreement of this kind does not seem hopelessly chimerical.

License Taxes

Licenses in Maryland date from an early period, although the most important were first levied in the second decade of this century. In 1780 the marriage license was imposed, and an annual tax of £15 upon billiard tables was levied in the same year. In 1819 the broker's license was introduced in the form of a tax of $500 per annum on every broker dealing in bank notes or lottery tickets. The trader's license, auctioneer's license and ordinary's license date from 1827. From this time until about twenty-five years ago the state derived its principal revenue from this source. During the twenty-two years, 1877-1898, the various licenses yielded about thirty-three per cent. of the total tax-receipts.

Forms of License Taxes. Besides the quasi-license taxes to be treated with the corporation taxes, the following license taxes are imposed in Maryland:

(1) Auctioneers in Baltimore City pay from $450 to $750, according to the amount of sales. In the counties,

auctioneers pay the trader's license upon the value of the stock on hand. Receipts in 1898, $3822.00.

(2) Brokers pay special charges ranging from $100 for exchange, insurance, and pawnbrokers, to $18.75 for grain, coffee, cotton, and sugar brokers. Receipts in 1898, $18,952.65.

(3) Hawkers and pedlers pay from $100 to $200 for each county in which they sell, according as they travel on foot or with horse and wagon. In eleven counties they pay $300 when they travel with a wagon and two horses. Receipts in 1898, $3012.91.

(4) Traders' licenses vary from $12 paid on a stock of $1000 or less, to $150 paid on a stock worth $40,000 or more. Receipts in 1898, $188,879.44.

(5) Billiard-tables. The annual license tax on billiard-tables rented or conducted for a profit is $50. Receipts in 1898, $5604.27.

(6) Liquor-Dealers selling in quantities of more than one pint pay licenses varying from $18 on a stock worth less than $500, to $150 on a stock worth more than $30,000. Dealers taking out an $18 license must pay in addition the trader's license of $12. Receipts in 1898, $10,697.66.

(7) Ordinary-Keepers pay from $25, where the house occupied has a rental value of $100 per annum or less, up to $450, where the house has a rental value of $10,000 or more. Receipts in 1898, $11,877.89.

(8) Saloons and Oyster-Houses in the counties pay $50 per year. Receipts in 1898, $33,044.44.

(9) High Liquor license. In Baltimore City and Ellicott City all liquor-dealers, saloon-keepers, etc., pay an annual license of $250. Receipts in 1898, $546,880.14.

(10) Oyster-Dredger's license. Owners of boats engaged in dredging oysters pay $3 per ton annually. Receipts in 1898, $35,693.75.

(11) Oyster-Tongers pay from $2 to $5 a year, according to length of boat. Receipts in 1898, $12,925.24.

(12) Oyster-Canners pay one-tenth of one cent upon

every bushel of oysters shucked. Receipts in 1898, $4853.92.

(13) Oyster-Measurers pay ten cents per hundred bushels measured. Receipts in 1898, $909.20.

(14) Net-Fishing. Three cents for each square fathom of seine, and one cent for each square fathom of gill-net. Receipts in 1898, $204.85.

(15) Commercial fertilizers. Every manufacturer or importer of fertilizers is required to pay $5 for the first 100 tons sold, and $2 for each additional 100 tons. Receipts in 1898, $9150.00.

(16) Exhibition licenses. Theatrical companies, shows, circuses, etc., pay, in addition to local licenses, $30 per year, or $1 per exhibition, in the counties. In Baltimore City theatrical exhibitions and circuses pay to the state $3 each night; other exhibitors, $10 per week. Receipts in 1898, $3347.71.

(17) Cigarette license. To sell paper-wrapper cigarettes, dealers are required to pay a special license of $10 per year. Receipts in 1898, $11,160.20.

(18) Race and Fishery. To sell liquor at horse-races and fisheries, special licenses are issued which cost $4.50 and $6.50 respectively. Receipts in 1898, $41.80.

Critical Suggestions. Judged by McCulloch's empirical standard, the license taxes are the best taxes we have. They are easily and cheaply collected, very productive, and cause little irritation or complaint. Considering how completely the faculty or *quid pro quo* theory fails to explain some of our most satisfactory taxes (as, for example, the inheritance tax), there seems no reason why we should advocate the abandonment of license taxes because they have no apparent philosophical basis. Many of these licenses, notably the high liquor, cigarette, and exhibition licenses, are sumptuary measures. The first of these has had a most beneficial influence in Baltimore, and there seems little reason why we should not regulate by taxation if the measure of regulation desired by the public can be thus secured. The

traders' licenses are not excessive and it is improbable that prices are appreciably affected by them. If the number of such fixed charges could be increased without causing more injustice or irritation than the average license of the present, the increase would seem, *pro tanto*, a most desirable substitute for the property tax.

Many of the licenses are specially devoted to the interests of the particular branch of trade from which they are drawn. Thus, most of the oyster licenses are imposed for the sole purpose of maintaining the supremacy of Maryland in the oyster trade. The same motive explains the fertilizer license. Baltimore is now the largest manufacturing center of the fertilizer industry in the country. In order to keep the standard of these goods high this license is imposed and the proceeds devoted to the maintenance of a chemical laboratory where the inspection and analysis of fertilizers is constantly going on.

In glaring contrast to most of the licenses are those required of pedlers, and auctioneers in Baltimore. The latter occupation is a virtual monopoly in Baltimore, only eight licenses being issued in 1898. The law provides that auctioneers shall be appointed by the Governor and shall pay $450 per annum if their sales—excluding real estate and houses—are less than $150,000. Where such sales amount to more than $150,000, the license costs $750. Whether this tax meets the approval of those who can afford to pay it, is not plain. But it certainly renders one legitimate vocation inaccessible to the poorer classes and undoubtedly diminishes the revenue that would accrue from this source if the licenses were of normal amount.

The excessive license charge required of pedlers furnishes another instance of explicable but unjustifiable trade antipathy. Scarcely a session of the General Assembly passes without these charges being increased or extended over counties where formerly they did not apply. If auctioneers and pedlers thrive so well and it requires such an effort to repress them, it is only a proof that they are

performing some economic function better than the ordinary traders, and they should be encouraged, not discouraged. The excessive pedler's license is due in some degree to a survival of the Jew-baiting instinct. This charge is undoubtedly aimed at the industrious Jewish itinerant who peddles notions, since hawkers of fish and green provisions are exempt.[1]

Licenses are granted by the clerks of the Circuit Courts. Sheriffs and constables are enjoined to make diligent search for violators of the law and informants in every case are given one-half of the penalty imposed. The law is generally well enforced and there are no wholesale evasions. Some of the penalties provided exhibit peculiar prejudices similar to those noted in the case of pedlers; for example, a penalty of $500 is imposed upon people doing a broker's business or keeping a public billiard-table without a license, while the pecuniary penalty for selling liquor without a license varies from $50 to $200.

The more serious problem to be solved in connection with licenses is not whether they should be retained; but whether their proceeds should go to the state or the local division in which they are collected. The state retains one-fourth of the proceeds of the high liquor license collected in Baltimore. It retains the entire proceeds of the traders' licenses collected in Baltimore—nearly $104,000 in 1898. Two questions are frequently asked by the citizens of Baltimore: why should any of this money go to the state at all, and, if the state has a just claim to the proceeds of license taxes, why should it take a part in the one case and the whole amount in the other?

The answer to the latter question is not difficult to find.

[1] Pedlers pay $100 to travel afoot, $150 to travel with one horse and wagon, $200 with two horses and wagon. They are restricted to one county for each license, are adjudged to be selling without license if they do not have the license certificate with them, and a reward of $10 is offered to any person who secures the conviction of a pedler selling without license. In contradistinction to this the traveling salesman pays nothing and the saloon-keeper only $50.

The city of Baltimore in so far as its liquor trade is concerned, is subjected to heavier taxation than other local districts. A portion of this taxation, about equivalent to the amount of taxes collected from liquor-dealers in other parts of the state, is retained by the state in order to place Baltimore upon an equality with other local divisions in this respect. The justice of this apportionment must be acknowledged if it be decided that the state has a better claim to the proceeds of licenses than the several local divisions.

The Mayor of Baltimore has recently criticised the practice of using the traders' and other licenses for state purposes. The public expenses entailed by traders are borne by the city; the logical fund for the payment of these expenses, he claims, is that derived from the licenses imposed upon traders.

The question involved is clearly one of equity, to be decided by reference to the general principle in accordance with which license taxes are imposed. If licenses are paid in return for and in proportion to public services rendered, the proceeds, speaking generally, should go to the local districts in which they are collected. If they are payments for the grant of public privileges, the proceeds should go to the state.

In origin, the license tax is closely akin to the modern franchise tax and appears, in its historical aspect, as the price of the privilege to do business; in Mississippi, for example, the tax is still known as the privilege-license tax. The grant of such privileges lies wholly within the province of the sovereign power; it is not within the ordinary power of a municipal corporation either to authorize, prohibit, or circumscribe by license the pursuit of a calling or trade not inimical to the public health, morals, or safety. In consequence of these facts, the payments for the grants mentioned should be retained by the power which conferred them; and this power is the state. This interpretation of the nature of the license tax is further supported by

the difference in the burden imposed upon the several kinds of business. The broker and the pedler have no extensive stocks or establishments necessitating the maintenance of police and fire departments, yet they pay higher licenses than ordinary traders. Moreover, the license charges are substantially uniform throughout the state, irrespective of the degree of protection afforded by the various local governments.

It is admitted that the above is an ultra-theoretical view of the nature of the license tax, but the distribution of taxation among individuals and the distribution of the proceeds of taxation among the several governmental divisions are problems which are essentially theoretic. It is also admitted that there are many weighty arguments which may be adduced in support of the justice of the Mayor's plea. But in the opinion of the writer, the distinctive features of the license stamp it unmistakably as a state tax as distinguished from a municipal charge.

Corporation Taxes

Under the above heading the following taxes have been grouped:

(a) Tax on Gross Receipts of Corporations.
(b) License and Premium Tax on Insurance Companies.
(c) Tax on Capital Stock of Corporations.
(d) Franchise Tax on Savings Banks.
(e) The Bonus Tax on Corporations.
(f) The Foreign Corporations Tax.

In 1898 the tax on the gross receipts of corporations yielded $191,638.98; the license and premium tax, $149,039.10; the tax on capital stock, $140,673.11;[1] the tax on savings banks, $32,353.70; the bonus tax, $5,005.42. No returns from the foreign corporations tax have been published as it was not imposed until 1898.

Tax on Gross Receipts. Until 1894 there were no taxes

[1] The tax on Baltimore City stock is included.

on gross receipts in Maryland, save those on railroads, first imposed in 1872. The present taxes which were passed in 1896, are as follows: "a state tax as a franchise tax" is levied upon the gross receipts of all steam railroad companies doing business in the state, to the amount of eight-tenths of one per centum on the first one thousand dollars per mile of gross earnings, or on the total earnings if they are less than one thousand dollars per mile; one and one-half per centum on all gross earning above one thousand dollars per mile and up to two thousand dollars per mile; when the gross earnings exceed two thousand dollars per mile, two per centum on all earnings above that amount.

All oil and pipe-line companies, and all title-insurance companies doing business in the state pay a franchise tax of one per cent. on their gross receipts. Every telegraph or cable, express or transportation, telephone, parlor-car, sleeping-car, safe-deposit, trust, guarantee and fidelity company, doing business in Maryland, pays two per cent. on gross receipts. Electric-light companies pay three-fourths of one per cent. on gross receipts. Electric-construction companies, gas companies, and fertilizer companies pay one and one-half per cent. on gross receipts,[1] with the exception of fertilizer companies, unincorporated firms or individuals engaged in the businesses enumerated above pay the corresponding taxes on gross receipts.

Companies subject to these taxes whose lines lie partly outside the state, pay upon such proportion of their gross earnings as the length of their line in Maryland bears to the whole length of their line. The data required for the calculation of these taxes must be reported to the State Tax Commissioner "in any mode satisfactory to and required by" that official.

The gross-receipts tax is the only state tax imposed on railroads. They pay the local taxes upon their real and personal property. Capital stock is thus wholly exempt.

[1] Only those fertilizer companies pay on gross receipts which are incorporated outside of Maryland.

The boards of control and review and county commissioners made the valuation of real and personal property in 1896, and no conditions were imposed upon them save that of assessing bridges over streams at the same rate as any other equal portion of the road. There is thus no central board charged with the assessment of railroad property. The assessment of rolling stock furnishes something of an exception to this statement. The rolling stock of a road is assessed by the board of control and review or the county commissioners in the assessment district in which the company has its principal place of business. The valuations made by these boards are then reported to the State Tax Commissioner, who adds them together and apportions the sum among the various local divisions according to mileage.

About 80 per cent. of the whole amount of gross-receipts taxes received in 1897 came from railroads. The question arises, do the railroads pay as much upon a just valuation of their property as individuals would pay upon the same amounts? This question suggests the difficult problem of finding some quantitive relation between the value of a railroad and its gross earnings. The Maryland Tax Commission of 1888—following the suggestion of the Illinois commission of 1886—undertook to solve this problem in the following way: It was found that the true net earnings of railway companies were in the long run about seven per cent. of an amount secured by multiplying the gross earnings by five. Starting from the gross earnings they thus capitalized net earnings at seven per cent., and assumed the result to be the value of the railroad under consideration. The indirect capitalization from gross earnings was employed because of the greater likelihood of deception in the return of net earnings.

Railroad statistics show a remarkable connection between gross and net earnings. The net earnings of railroads in the Middle Atlantic States, according to Poor's Manual of

[1] Report of the Maryland Tax Commission of 1888, p. 21.

1898, have been, in the average of the last thirteen years, 33 per cent. of the gross earnings.[1] According to the report of the Interstate Commerce Commission for 1896, net earnings, in the average of the last seven years (for the whole United States), have been 32.88 per cent. of gross earnings.[2] According to the report of the Railway Commissioners of Massachusetts for 1898, the same ratio for the last ten years, for railroads in Massachusetts was 31.06 per cent.[3] These results from three different sources not only resemble each other closely, but the variation of separate returns from the mean is not great. Thus the greatest variation in ten years in Massachusetts was 3.51 (29.53—33.04). We may then assume, taking Poor's figures for the Middle Atlantic States, that net receipts are about one-third of gross receipts.

The Northern Central and the Baltimore and Ohio Railroads have special contracts with the state by which they pay only one-half of one per cent. upon their gross earnings. A great deal could be said about the justice of these contracts and the methods by which they were secured; but these points cannot be discussed here. Excluding these, the other thirty-five roads in 1897 were assessed $111,769.49 upon total gross earnings, which amounted to $6,733,987.11. Computing net earnings as indicated and capitalizing these at seven per cent., we would get $32,066,608 as the total cash value of the roads in question. The regular state tax upon this valuation would be $56,918.22; a little more than half of that actually paid. Considering the risks involved, seven per cent. is not too great a return upon railroad investments. In the opinion of many, however, a higher capitalization should be made, the Ohio commission of

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[1] Poor's Manual for 1898, p. 38.

[2] Statistics of Railways in the United States for 1896, p. 80. The items *net* and *gross earnings* are not used by the statistician of the commission, but essentially the same information is reported under the terms "Gross Earnings from Operation" and "Income from Operation."

[3] Railroad Commissioner's Report for 1898, p. 64.

1893, for instance, using six per cent.[1] In order to give full weight to the public interests we may capitalize at five per cent. At this rate the value of the roads is $44,893,251, upon which the ordinary state tax at 17¾ cents would be $79,685. As the roads actually paid $111,769, we see that they are paying about $32,000 more than an individual would on property of the same value. So far as the above method of calculation is concerned, we believe it to be substantially accurate. If the railroads are as honest as the average taxpayer, and the net earnings are fairly estimated, there can be no doubt that the railroads are paying at least 1.4 times the ordinary state property tax. The valuation made covers franchises and bonded indebtedness.

Railroads pay local taxation only upon their tangible property. Their franchises thus escape the heavy burden of local taxation. The extra .4 may then be interpreted in one of two ways. It may be taken as a payment for the original grant of the franchises from the state. Franchises are property. If the state transfers such property, it has a right—in fact is compelled—to tax it as other wealth. It may also take its payment for the original transfer of the property in the shape of a tax. If the extra .4 or $32,000 be viewed in this light, the state is getting a fair return for its grants, but the roads are escaping local taxation upon the value of their franchises. If the .4 be regarded as a part payment on account of this local taxation avoided, then the state receives no true franchise tax, and local taxation—which in the average is more than seven times as great as state taxation—is still largely avoided.

From these considerations we might conclude that the railroads were escaping a large portion of taxation in either way we look at the matter. This conclusion must be modified, however, by the fact that the bonds of these roads are assessed to the individual holders resident in Maryland. The capitalized value estimated in the way we have shown

[1] Report of the Tax Commission of Ohio of 1893, p. 53.

includes bonded indebtedness as well as capital stock. If railroads were taxed upon a cash value so estimated, bonds and stock in the hands of individuals would have to be exempt to avoid double taxation. The payment of taxes upon bonds thus necessitates a suspension of judgment upon the question with which we started out. There is no way of discovering how many of these bonds are taxed.

The one conclusion that may be drawn is this: What constitutes equitable railroad taxation is not ascertainable under the present system. It differs too radically from the taxation of individuals to allow intelligent comparison. Two reforms are needed: (a) different kinds of taxes should be devised for railroads; (b) there should be a special commission or commissioners in charge of railroad taxation. The surest way of securing justice would be to make the railroads pay state and local taxation upon a cash value ascertained by capitalizing earnings. If desirable, real estate owned by railroads could be assessed separately and subtracted from this capitalized value, as is now done in assessing the capital stock of corporations. In addition to this a small gross-receipts tax might be imposed as a franchise tax. In 1897 the average rate upon gross earnings paid by the railroads was $1\frac{4}{8}$ per cent. This might be reduced to one-third of one per cent. as an annual rental payment for the franchises.

The necessity for some special official to look after the state's interests in the taxation of railroads is apparent. At the present time the Northern Central has paid no gross-receipts tax for several years, and there is a dispute with this road and the Baltimore and Ohio over the payment of local taxes upon rolling stock. According to the last report of the state tax commissioner, fourteen of the thirty-seven roads in the state owned no rolling stock; reports from three other roads had not been turned in, and the regular apportionment provided for by law had been made for only three roads.

The gross-receipts taxes levied upon other corporations

amounted in 1897 to a little over $40,000, or about twenty per cent. of the total return from the taxes on gross receipts. The latter constitute franchise taxes in the true meaning of the words, as the corporations subject to them pay in addition the ordinary property tax.

License and Premium Tax on Insurance Companies. The first tax of this sort—two per cent. on the premiums of foreign companies—was authorized in 1839. In 1872 the office of Insurance Commissioner was created and charged with the duty of inspecting insurance companies and assessing them for taxation. The present law relating to the taxation of insurance companies was passed in 1894.

Every agent of a foreign [1] insurance company doing business in Maryland is required to pay an annual license tax of $300 plus one and one-half per centum on the amount of premiums actually collected in the state. Foreign companies are also required to register their charters, and to make an annual statement of resources, liabilities, premiums, etc. For both of these registrations a fee of $25 is charged. The companies are also subject to several other minor charges of the same nature, ranging from $10 to $2. In estimating the amount of premiums upon which the tax of one and one-half per cent. is paid, the companies are allowed to deduct the claims or losses actually paid in the state.

This tax only applies to foreign companies. Home companies pay the ordinary corporation tax upon capital stock. This acts as a distinct encouragement to the formation of home companies. The tax is one of the most lucrative levied by the state, the yield in 1898 being nearly $150,000.

Tax on Capital Stock of Corporations. The development of corporation taxation in Maryland has been slow. The collection of taxes upon capital stock at the source began in 1841. In 1847 the duty of assessing such shares was transferred from the ordinary assessors to the county com-

[1] That is, companies not incorporated in Maryland.

missioners. In 1878 this power was vested in a State Tax Commissioner. There have been no essential changes in the law since 1880, save the abandonment of the attempt to collect taxes on the bonds of Maryland corporations from the corporations themselves.

Companies incorporated by, or located and doing business in the State of Maryland pay the ordinary state and local taxes upon their real property. Capital stock is assessed by the State Tax Commissioner. In making these valuations the Tax Commissioner is authorized to examine under oath any person who he is advised has information on the subject, and he is assisted in this work by the fact that every corporation doing business in Maryland is required to file in his office a copy of its charter. The president or other proper officer of every corporation is required to furnish the county commissioners of the several counties and the Appeal Tax Court of Baltimore with a list of all shareholders residing in, and a description of all real property situated in their respective districts. The real property is then assessed at its situs, and a record of this valuation is returned to the Tax Commissioner. The latter is directed to value capital stock as follows: "He shall deduct the assessed value of such real property from the aggregate value of all shares of such corporations, and divide the remainder by the number of shares of capital stock, and the quotient shall be the taxable value of such respective shares both for state and local purposes." This valuation is then communicated to the county commissioners and the Appeal Tax Court of Baltimore. The Comptroller and the proper local collectors then collect the state and local taxes respectively, from the several corporations. Local taxes on the shares owned by non-residents are paid in the county or city in which the corporation is situated. The valuation made by the Tax Commissioner is reported to the respective corporations by the Comptroller. An appeal may be made within 30 days to a board composed of the Treasurer, Comptroller and the Tax Commissioner. Any alteration agreed upon by the Treasurer and Comptroller may be made.

Corporations pay no taxes upon personal property, though it is provided that the valuation of the capital stock shall in no case be less than the full value of the personal property "whether the shares of said stock are quoted on the market or not." Corporations holding stock in other corporations upon which the state tax is paid or payable, may report the same to the Tax Commissioner, who credits the amount of such holdings in making the valuation of the capital stock. Homestead or building associations are exempt from taxation upon their capital stock, to the extent that such shares represent investments in mortgages on real estate located wholly within the state, and executed by members of the association. Savings-banks pay a franchise tax upon deposits in lieu of the tax on capital stock. It is illegal in Maryland to tax capital stock both to the corporation and in the hands of the individual owners.[1]

The tax thus described does not differ from the property tax in its rationale. Capital stock as assessed to corporations corresponds to the personal wealth of individuals. All the assets of a corporation are reflected in the value of the capital stock, so that a large mass of intangible wealth is thus assessed which would probably escape if it were enumerated item by item. It is unfortunate that some similar expedient cannot be employed in the case of individuals. As was pointed out above, the state has abandoned the effort to collect taxes upon bonds from the corporations issuing them. For some years the state tried to tax the whole bonded indebtedness of Maryland corporations and collect the tax from the corporations. In obedience to decisions of the Federal Courts this effort was abandoned, and the state formally exempted non-resident owners of such bonds. In 1896 the corporations were relieved of all obligations in this matter and provision was made to assess the bonds to the individual owners. Local taxation upon such securities is now limited to 30 cents on the $100.

[1] County Com'rs *vs.* Farmers and Merchants Bank, 48 Md., 188.

The tax under consideration is rather a method of collecting the property tax than a distinct corporation tax. Because of this fact, we have included under this head the tax on the funded debt of Baltimore City. Baltimore City pays the regular state tax upon such of its stock debt as is held in the state. The tax paid by the city in 1898 amounted to nearly $49,000. The city pays this tax without subtracting it from the interest due the holders and also exempts the stock from city taxation. Notwithstanding these exemptions, corporations holding this stock can have it subtracted or credited in the valuation of their own capital stock. In consequence, Baltimore City bonds have become a favorite security and large quantities are held by Baltimore banks and trust companies. Considerable amounts are also held by the state for the sinking-funds.

For the purpose of keeping track of the corporations doing business in Maryland, two unimportant corporation taxes have been imposed, which may be mentioned here: (1) The Bonus Tax, upon companies incorporated in Maryland. Every company, upon incorporation, is required to file a copy of its charter with the State Tax Commissioner and pay him a tax of one-eighth of one per cent. upon its authorized capital stock. Every authorized increase of capital stock must also be registered and a like tax paid on the increase. This tax was imposed in 1894 and yields about $5000 annually.

(2) The Foreign Corporation Act was passed in 1898. Grave doubts as to its constitutionality are entertained. It provides that every corporation[1] doing business, but not incorporated, in the state, shall deposit with the Secretary of State a certified copy of its charter, together with a sworn statement from its chief executive officer setting forth the amount of its capital stock authorized, the amount actually issued, the amount of its assets and liabilities, the character

[1] Except telephone, banking, insurance, railroad, electric-light or construction, and oil or pipe-line companies.

of the business to be transacted in this state, and its principal place of residence in the state. A registration fee of $25 is charged upon the deposit of this information and adequate penalties are provided for violation of the act. Any agent presuming to do business without complying with the requirements stated is subject to a fine of $100 for each day of delinquency, and no unregistered corporation is entitled to maintain any action either at law or in equity in the courts of the state. The receipts from this tax have not yet been reported.

Franchise Tax on Savings Banks. Savings banks pay taxes upon their real property like individuals. In lieu of all other taxation they pay a franchise tax of one-quarter of one per cent. upon their deposits. Of this tax three-fourths go to the local authorities and one-fourth goes to the state. The amount of deposits is ascertained from a statement made by the president of the total amount of deposits held on the first day of January.

The Inheritance Tax

The collateral inheritance tax was first imposed in 1845. All estates transferred by deed, or by any kind of a grant intended to take effect after the death of the grantor, are subject to a tax of two and one-half per cent. on every hundred dollars of clear value. Inheritances to mother, father, husband, wife, child or any lineal descendant, and estates valued at less than $500 are not subject to this tax. The tax must be paid by the executor or administrator within thirteen months from the date of administration, before any legacy has been paid.

This tax is one of the surest and most satisfactory taxes in use. Estates must be registered at the recorder's office, and the value must be appraised, for the ordinary purposes of settlement. The tax thus becomes inevitable; a careful and unprejudiced valuation is secured, and collection through the administrator is made certain. He is author-

ized to sell enough property to pay it, if the heirs do not make provisions for payment in the specified time. This tax has been employed in Maryland for more than fifty years with eminently satisfactory results. A study of the returns from the tax for the last ten years shows that there has been no growth, or at least no apparent growth, in the receipts. Taking the exemptions into account, the rate of two and a half per cent. is too low, and there seems no reason why the state should not increase the rate, particularly upon large bequests. Collateral heirs only are affected: those having claims upon the decedent are not touched by the tax. Five per cent., in view of these circumstances, would, perhaps, not be too great on collateral bequests of more than $5000. This tax furnishes the best source of new revenue now left to the state, and even on general principles its rate should be gradually increased from year to year, until a moderate amount of progressivity is introduced. The revenue from this tax in 1898 was $134,279.90.

Tax on Commissions of Executors and Administrators

Every commission allowed to an executor or administrator by the orphans' courts of Maryland is subject to a tax of one-tenth part of the sum so allowed, for the use and benefit of the state. The courts are prohibited from making any allowance for this tax in fixing commissions of administrators, "It being intended that the tax shall be paid out of the said commissions, and not by the estate of the deceased." This is one of those eminently satisfactory taxes for which it is hard to find a sound philosophical basis. It seems to have been occasioned by the feeling that executors' commissions are, as a rule, excessively high. The logical action in this event would be a reduction of the commission and not the imposition of a tax. Taken by itself the tax does not seem sound. If administrative commissions afford only a reasonable compensation for the services rendered,

then the tax is an unjust charge upon administrators. If the commissions are too high they should be directly reduced for the benefit of heirs, not taxed for the benefit of the state. The tax may be partially justified in the latter event by interpreting it as an extension of the inheritance tax. It also might be defended as a license tax on lawyers. But in any event it seems philosophically defective. It has, however, the great empirical virtues of being sure, frictionless, and cheaply collected; its yield in 1898 was $49,875.54.

Excess of Fees

Section 1, Article XV of the Constitution of Maryland, provides that every official in the state (except justices of the peace, constables and coroners) whose pay is derived from fees, shall keep a detailed account of all payments made to him; that a copy of this record shall be sent to the comptroller; and that when the amount of fees shall exceed the salary of the official and the authorized expenses of the office, this excess shall be transmitted to the treasurer.

This tax is rather unimportant as a source of revenue; the yield in 1898 was only $64,363.99. But, as was noted above, it is one of the surest touchstones of economical administration that we have, and that the yield was forty per cent. greater in 1898 than in 1897 is a decidedly encouraging sign of the spirit which is pervading our state government.

Miscellaneous Taxes

Under this head have been grouped the following taxes: Tax on Protests; Tax on Official Commissions; Mortgage Tax.

Tax on Protests. Every notary public is required to pay to the state one-half of all protest fees received by him, (a) in excess of $500 per annum in Baltimore, (b) in excess of $350 per annum in the counties. The amount received from this tax is small and fluctuates greatly from year to

year. For the last twenty years the tax has yielded on an average about $4000 per annum. The yield in 1898 was $1170.

Tax on Official Commissions. This tax consists of certain fees paid by newly-elected officials on receipt of their commissions. These payments are made by all commissioned officials from judges to justices of the peace, and vary in amount from the $300 paid by the sheriff of Baltimore City to the $2 paid by constables. These charges are only imposed upon newly-elected officials, and in consequence the yield varies greatly from year to year. The tax was first imposed in 1844, and in 1898 yielded $7294.10.

Mortgage Tax. Until 1870, with one unimportant exception, debts secured by mortgage were listed and taxed like other securities. The causes which led to the exemption of this important class of personalty are well described in the Report of the State Tax Commissioner for 1884 (pp. x, xi). "At the time of the passage of the Act of 1870, landowners in Maryland were suffering from the terrible effects of the Civil War, an immense debt of the United States was seeking investment at six per cent. interest free of taxation; a variety of railroad bonds and other coupon bonds promising six, seven and eight per cent. interest were offered freely, and other investments were constantly on the market to such an extent that the owners of real property, particularly in the counties, frequently found difficulty in borrowing upon mortgage, while the mortgage debt was liable to taxation." The exemption of mortgages continued from 1870 until 1896, when the present law was passed after a prolonged discussion.

The law of 1896 provides that the mortgagee of every mortgage of record in the state shall pay annually a tax of eight per cent. of the gross amount of interest covenanted to be paid yearly. No covenant for the payment of the tax by the mortgagor is valid if made subsequent to the passage of the act, and every person lending money upon property in Maryland is required to swear that this charge has not

been shifted upon the borrower. One-fourth of the net proceeds of the tax goes to the state; the remainder is retained by the local division in which it is collected. In view of the disproportionate per centage paid for collecting this tax, its influence upon the rate of interest, and the tedious discussion it provoked, it is disappointing to learn that its yield in 1898 was only $6577.53. It is an eloquent illustration of the wastefulness of half-hearted financial measures. The tax should either be repealed or mortgages should be listed at their full market value and taxed like other personal property.

Conclusion

The most fundamental reform that could be quickly accomplished in the financial system of the State of Maryland is the repeal of the fifteenth article of the Declaration of Rights. That article reads: [We, the People of the State of Maryland . . . declare] "that the levying of taxes by poll is grievous and oppressive, and ought to be prohibited; that paupers ought not to be assessed for the support of the government; but that every person in the State, or person holding property therein, ought to contribute his proportion of public taxes for the support of the government, according to his actual worth in real or personal property; yet fines, duties, or taxes may properly and justly be imposed or laid, with a political view for the good government and benefit of the community."

This article, so reminiscent of the fiscal grievances of our colonial forefathers, constitutes the mould within which every system of taxation in Maryland must be formed. "Quaint, antiquated and unintelligible,"[1] it constitutes a perennial source of irritation and a serious menace to tax reform in Maryland, because of the uncertainty which it creates: uncertainty on the part of the legislature as to

[1] A characterization made by the late Mr. Woolford when he was State Tax Commissioner.

what taxes it may impose, doubt on the part of the taxpayer as to what taxes he must pay. The result is litigation which fails to produce any satisfactory interpretation of the article in question.

It is fairly well established that the taxes which must be imposed according to actual worth in real or personal property are direct property taxes. Licenses, franchise taxes, mortgage taxes, taxes on gross receipts, have all been sanctioned by Maryland courts.[1] In general, the latter have been very liberal in the freedom which they have given the legislature, and in one very able opinion the court declared that the several cases, in which this article had been reviewed, establish the principle—and nothing beyond it—"that when taxes are laid directly upon property they must be equal and uniform upon all property in the state."

But having confined the bearing of the article to the property tax, it still remains a most prolific source of confusion. An immediate conflict with common sense is occasioned by the fact that this article really debars all exemption. In this conflict it has been the article and not common sense which has given way. Legislative bodies were allowed perfect freedom in exempting property until a few years ago, when the Court of Appeals spoiled the interesting Hyattsville experiment with the single tax, because it did not believe in the single tax. "We are not to be understood," said Justice McSherry, "as denying to the legislature the power, when state policy and considerations beneficial to the public justify it, to exempt within reasonable limits some species of property from taxation."[2] But the bench reserved to itself the right of deciding what exemption was reasonable and what policy was beneficial.

No clearer demonstration of the folly and futility of inserting glittering generalities into state constitutions can be found than in the effect of this clause upon taxation in

[1] State *vs.* P., W. & B. R. R. Co., 45 Md., 378; Germania *vs.* State, 7 Md., 1; Appeal Tax Court *vs.* Rice, 50 Md., 302.

[2] Wells *vs.* The Commissioners of Hyattsville, 77 Md., 125.

Maryland. The ultimate control of taxation has passed from the legislature. Even their right of controlling local affairs has been infringed. A few years ago a statute was passed directing the county commissioners of Prince George's County to pay back to the commissioners of the town of Laurel all the county taxes levied upon real estate in that town. This act was held to be contrary to Article XV of the Bill of Rights. After this it is impossible to predict what measure of interference the courts will allow themselves. It seems clearly within their province to annul any tax which to their minds is unjust or unreasonable.

One might view this emasculation of the legislature with equanimity if it were certain that the rulings of the courts would be consistent either with good logic or sound finance. But they are not. In their view it is beneficial to exempt grave-yards and churches, but it was not beneficial to exempt the personalty in Hyattsville in order to test the efficiency of a well-endorsed tax reform. In 1842 it was reasonable to impose a special tax upon watches,[1] but it is now unreasonable to lay a special tax upon all coal mined in the state for transportation. To tax corporate stock both to the corporation and the individual owner is declared double taxation, but mortgagor and mortgagee may be taxed upon the property and upon the debt on the property respectively, and no offense be committed. In the past, Maryland has twice employed the income tax. But now that the income tax has grown "socialistic," one cannot tell whether it would appear just and reasonable to our judicial arbiters or not.

At present tax reform in Maryland is at the mercy of the courts. I do not believe that the framers of the Constitution meant that the power of deciding upon the expediency of proposed taxes should be lodged with the judiciary, and it is a grave question whether it should be so placed. Judges are proverbially bad economists, and from an econ-

[1] *i. e.*, it was never declared unreasonable.

omic standpoint we can count upon little more than their conservatism. But conservatism is a virtue only where the thing conserved is worth conserving, and this worth does not attach to the antiquated and outgrown system of taxation inherent in the fifteenth article of the Bill of Rights. The effective control of taxation should be placed with the legislature, and care should then be taken to send men to the legislature who would not abuse their power.

To repeal the fifteenth article of the Declaration of Rights would require a constitutional amendment. Such an amendment was presented to the people in 1891 and was defeated by a majority of less than 600 votes. But this vote cannot be taken as a permanent indication of the wishes of the people; only thirty-six per cent. of those voting for the governor voted upon the amendment. The masses, with traditional indifference, did not take the trouble to vote. Large property-holders were foolish enough to look upon the article as the bulwark of public financial equity. As a consequence rational taxation was indefinitely postponed.

There is no reason to disguise the defects of the property tax. Academic writers have fully exposed its weakness and numerous contributions to the steadily growing collection of monstrosities attributable to it will be found in the following papers. The fact remains that in Maryland the property tax is entrenched in the Constitution and until that is amended we must look to reform and not to revolution. Moreover, the writers who have criticised the general property tax have utterly failed to propose a satisfactory substitute.

There are, however, a number of practical reforms which should be instituted at once. One of the most important of these is the revocation of special class privileges. Such provisions as the exemption from taxation of all persons whose property is assessed at less than $100, or the limitation of local taxation upon bonds and stock in foreign corporations to three-tenths of one per cent., are inconsistent from a legal standpoint, and as fiscal expedients, acknowl-

edged failures.[1] The constitution of the state declares that every person ought to contribute his proportion of the public taxes according to his actual worth in real or personal property. If it be inconsistent with this clause to exempt all personal property from taxation, it is also inconsistent to limit local taxation upon a certain class of personal property to thirty cents upon the hundred dollars. If the limitation be defended on the ground that these securities are taxed in other states, a claim that is valid in the case of stock in foreign corporations, they should be exempted *in toto*, not taxed in part.

Two arguments have been advanced in defense of this limitation. It is claimed, in the first place, that it stimulates the listing of such property or, in other words, that it makes dishonest men honest, and in the second place, that it attracts a desirable class of residents.

The first claim can be decided only by reference to the opinion of experienced and disinterested tax-officials. The officials with whom I have conversed upon this subject are almost unanimous in condemning the law. Many of them hold that it is an unjust discrimination. They state, almost without exception, that it has not increased the taxable basis in a degree sufficient to compensate for the reduction of rate. As the State Tax Commissioner writes, the increase in the assessed value of bonds and stock in foreign corporations since the passage of the limitation, is due to the new assessment act which went into effect at the same time, and not to the limitation. The man who will perjure himself to escape a rate of two dollars will also perjure himself to escape a rate of thirty cents.

The claim that the limitation of local taxation upon bonds and foreign stocks will attract capitalists is almost too trivial for notice. Differences in local rates may draw men of means from one part of the state to another, but the

[1] It is interesting to note in this connection that the members of the present Appeal Tax Court of Baltimore are opposed to the law exempting the plant of manufacturing companies as it now exists.

number of men who can be induced to change their residence from one state to another by the reduction of taxation upon a single species of property, is too small to be seriously considered. Moreover, a large part of the burden which is removed from bonds and stocks must be placed upon other classes of property. The general rate of taxation goes up as the number of special exemptions increases, and this fact deters immigration as much as the special limitation encourages it. It is the general rate of taxation which is considered by the prospective immigrant.

As a matter of fact it would be very nearly accurate to state that the whole policy of exempting special classes of property in order to attract capital and capitalists is a palpable mistake. The industry that has to be permanently subsidized by the state is a source of weakness, not an element of strength. When we encourage the establishment of manufacturing plants, we discourage the investment of capital in improvements upon real estate. And what is perhaps most important of all, we divert public opinion from the natural means of attracting capital. The true incentive to capital is a low rate of general taxation and that is to be secured by economy in the expenditure of the public money, not by the grant of special favors which may be retracted at the caprice of the legislature which bestowed them.

I have included in the class of those specially, and in consequence, unjustly favored, the persons who are exempted from taxation because they are assessed for less than $100. This has been done because the exemption from state taxation involves the exemption from local taxation, and in local taxation, to invert a well-known phrase, there should be no representation without taxation. In state taxation men may be called upon to contribute in proportion to their ability, and the man who really owns less than $100 worth of property, may justly be treated as unable to pay any direct taxes at all. This is particularly true when the burden of indirect taxation is taken into account. But muni-

cipal taxation rests upon a different basis. The municipality is more akin[1] to the corporation than to the state, and only those members of the corporation should participate in its government who contribute towards its maintenance. Responsibility educates, and the obligation on the part of the poorest citizen to make some sacrifice in return for the important service rendered by the modern city, would be the surest means of securing intelligent voting and purifying municipal politics.

The most "satisfactory" taxes we have are those of secondary importance. Many of the evils of the property tax arise from the fact that we are accustomed to raise such a large proportion of the public revenue by this agency. One remedy would seem to lie in the further diffusion of taxation. Whether or not the "diffusion" theory is correct, it is certain that several of the minor taxes could be increased with benefit, if this increase were subtracted from the property tax. The first of these is the inheritance tax; there is no reason why the present rate upon collateral bequests should not be increased, particularly where these bequests are large. On the other hand, part of the burden upon individual property might be shifted upon corporations with advantage.

Under the present constitution, the shifting of a larger part of the burden upon corporations can only mean an increase in the franchise taxes on gross receipts. We have already given reasons for believing that this should be done in the case of railroads. The increase of rate should, however, be made all along the line, particularly upon quasi-public industries and upon the trust companies of Baltimore. For its monopoly in the city of Baltimore the Consolidated Gas Company paid in 1887, $12,343.96. The franchise is probably worth ten times that amount. At the date of writing no business is in such a flourishing condition

[1] I say "more akin" advisedly. I should avoid the general statements contained in this paragraph were it not for the limitations of space.

as that of the trust and fidelity companies of Baltimore. Eight of these companies paid the franchise tax of two per cent. upon gross earnings in 1897. Four of these eight companies have each accumulated a surplus greater than their capital stock and the shares of the eight companies noted are worth, on the average, a premium of one hundred and sixty per cent., several of them selling at nearly four times par value.

The universal prosperity of this class of corporations proves that much of it is dependent upon the peculiar franchises granted them. The banking and other privileges conferred are valuable and should be charged for. From either the faculty or the *quid pro quo* standpoints these corporations should be put in a new and advanced class, and be subject to a tax say of three per cent. upon gross earnings instead of two per cent. This could be done without the slightest acquiescence in the doctrine that success should be taxed wherever and whenever it appears, simply because it is success.

Before attempting to relieve the property tax by increasing the rates of other taxes, the property tax should be rendered as inexpensive as possible. The assessment of 1896 cost $186,000 in Baltimore City alone, and neither the quality of assessors nor that of the assessment was extraordinary. The assessment of personalty in 1898 cost much less than $186,000, but in neither case did the results justify the expense. The recommendations of the Appeal Tax Court and the Board of Estimates of Baltimore City should be followed; the biennial assessment should be replaced by a permanent corps of trained assessors holding office during good behavior.

One of the most glaring abuses in the financial system of the state is the method of paying registers of wills for the part they take in collecting state taxes. Their services in this connection consist principally in the collection of the inheritance tax and the tax on commissions of executors and administrators, the most easily collected of all state

taxes. Until 1892 the remuneration of the registers was five per cent. of their collections. In that year the legislature was moved to raise this commission to twenty-five per cent. The magnitude of the resultant leakage, to use a mild term, may be gathered from the following statement of Comptroller Goldsborough, who calls attention to this abuse in his report for the fiscal year 1898. "Were this law not in effect we should have received during the present fiscal year, in round numbers, the sum of $233,000, as against $184,000."

The changes suggested in this section of the paper have at least the merit of practicability. Whether they are advisable is of course open to debate, but that they are possible is unquestionable. In conclusion it may be proper to mention one or two more thorough-going reforms whose introduction would be far more difficult.

The greatest evils of American commonwealth taxation are the escape of personal property and double taxation, and as long as property, and claims to property in one state, may be owned by citizens of another state, these abuses are likely to remain. None of the suggested reforms—certainly not the income tax—strike at the root of these evils.

I fail to see how they can be remedied except by the creation of an interstate department of taxation—an American *Zollverein*—taken in connection with a provision for debt exemption. If taxpayers were allowed to subtract from their assessment every debt for which they could cite a *bona fide* creditor, to whom the credit could be assessed, the private securities now hidden would be brought to light by the operation of self-interest acting on debtors. For example, an individual, *a*, holds land in the state, *A*, which is mortgaged to *b*, resident in the state, *B*. The whole value of the land would be assessed to *a* in *A*, and the assessment would not be reduced until *a* had produced evidence of his debt to *b*. This credit would then be assessed, by the interstate bureau of taxation, at its actual value, based upon the amount of interest actually paid, and

it would then be determined whether *b* acknowledged the credit and whether he could be taxed. If the tax could be collected from *b*, the value of the debt would then be subtracted from the assessment of *a*, and transferred to the assessment of *b*. If the land in question be taken to represent any kind of tangible property, and the mortgage any kind of interest-bearing claim to property, we have a typical instance of the most prolific source of perjury, double taxation, and fiscal injustice in present commonwealth taxation.

The question immediately arises: which state, *A* or *B*, is to receive the taxes on the credit owned by *b*? The domicile of *b* is in *B*, but the property is in *A*. In which state should he pay?

Before answering this question it may be well to point out that, irrespective of *A's* ability to collect the tax from *b*, it would be desirable to exempt *a*. The mortgage upon *a* is a distinct drain upon his ability to pay—negative wealth—and whether *A* can collect the tax upon the property from *b* or not, justice and political economy alike demand that *a* should be exempt. The reason that American states refuse to exempt debt is not because they frequently have no jurisdiction over the owner of the debt; the reason is that, without the interstate intelligence bureau of which I have spoken, fictitious debts can be manufactured at pleasure and the privilege abused. Dismissing all reference to the division of the taxes upon intangible personalty and recurring to our illustration, it is seen that this danger of abuse would be avoided if the state, *A*, simply informed the state, *B*, of *b's* ownership of the credit and exempted *a* only after word had been received from the tax officials of *B* that *b* acknowledged the credit and was paying taxes upon it. Debts owned in foreign countries would of course remain a minor source of evil until an international agreement had been reached.

We may now return to the problem of the distribution of the taxes upon the mortgage. In the first place it may be stated, as a consequence of the preceding paragraph, that

if no state were able to collect taxes upon credits owned in other states, there would be no necessity for a stronger interstate association than the mere intelligence bureau charged with the verification of debts upon which exemption was claimed. Even under existing conditions such a bureau would be of immense advantage.

As a matter of fact, however, American states can and do tax a most important class of credits owned by citizens of other states (corporate stocks), and there nowhere exists, even within the boundaries of a single state, a clear idea of the proper distribution of taxation. No one has as yet explained whether taxes should follow the property or the owner of the property. To express the difficulty in concrete terms: should shares of stock be assessed in the state in which the company is incorporated, or in the state in which owned, or partly in each state, and if partly in one state and partly in the other, how are the proportions to be determined? To do away with all double taxation an interstate agreement upon these points would have to be consummated. It is for this reason that I have spoken of this reform as being far more difficult than those suggested in the earlier sections of the paper.

[Bibliographical Note.—1. Archives of Maryland, Baltimore, 1883. 2. Assessment Laws of 1896, Baltimore, 1896. 3. Public General Laws of Maryland. 4. Reports of the Comptroller of the State of Maryland. 5. Maryland: Its Resources, Industries and Institutions; by members of Johns Hopkins University and others, Baltimore, 1893. 6. Report of Maryland Tax Commission, Baltimore, 1888. 7. J. H. Hollander, Financial History of Baltimore, Baltimore, 1899. 8. Report of the Tax Commission of Baltimore, Baltimore, 1886. 9. Henry N. Bankard, Taxation under the New and Old Assessment Laws, Baltimore, 1897. 10. Frederick J. Brown, Short Talks on Taxes, with reference to the Hayes Bill (1892), Baltimore, 1894. 11. Richard M. McSherry, Talks on Taxation in Maryland, Baltimore, 1893.]

II.

TAXATION IN NORTH CAROLINA[1]

By GEORGE ERNEST BARNETT

Economic Characteristics

Few states in the Union have struggled with greater difficulties in the construction of a satisfactory financial system than North Carolina. Omitting from comparison the wealthier and more densely settled states of the East and middle West, let us compare North Carolina with its neighbor on the north. The areas of North Carolina and Virginia are nearly equal; the populations of the states almost exactly the same in number; practically the same needs of government have to be satisfied in the two states; and yet the total assessed value of property in Virginia is nearly twice that in North Carolina.[2]

The valuation of assessed property *per capita* for the United States in 1890 was $407.88, while the valuation for North Carolina was only $145.43. Only one state in the Union had a lower *per capita* valuation. When it is borne in mind that the cost of state government increases with growth of population while the sources of revenue depend

[1] In the preparation of this paper I have received assistance from Hon. Hal. W. Ayer, State Auditor of North Carolina; from Hon. W. H. Worth, Treasurer of North Carolina; and from Herbert Clement, Esq., of Mocksville, N. C. Mr. Ayer and Prof. J. S. Bassett of Trinity College, Durham, N. C., have done me the favor of reading the proof. It is just to these gentlemen to say that they are in no way responsible for any opinions advanced herein.

[2] According to the census of 1890, the total assessed value of property in Virginia was $415,249,107; and in North Carolina, $235,300,674.

most largely on the growth of wealth, the difficulty of the problem presented in North Carolina becomes easily apparent. Under such conditions, the general property tax alone cannot defray the expenses of state as well as of county and municipal governments, without becoming oppressive. Other sources of revenue must be found.

But when we turn to the corporation tax to find relief for the payer of taxes on real and personal property, we are confronted with the difficulty that the population of North Carolina is distinctively rural. The largest town in the state has barely 20,000 inhabitants. Only about four per cent. of the people live in towns of 8,000 or more inhabitants. Industrial enterprises do not multiply under such conditions. Consequently, although a considerable revenue is derived from corporations, such receipts by no means constitute a chief part of the state's income.

As a result of these conditions, the forms of taxation employed in North Carolina have been various. The poll tax of colonial and ante-bellum times is still retained; the general property tax has been raised in rate from time to time, and systems of license taxes and corporation franchise taxes have been introduced. Besides these taxes, an experiment has been made with an income tax, and for a brief period a tax was imposed on inheritances.

A study of commonwealth taxation in North Carolina includes a study of some taxes which are in most other states local taxes. Thus the taxes levied for school purposes are almost entirely state taxes. Some school districts and many towns levy special taxes for schools, but, in general, school taxes are state taxes. These taxes, however, are never paid into the state treasury. They are in collection and distribution local taxes, but the General Assembly fixes the rate, which is uniform throughout the entire state.

This is not the only way in which the General Assembly regulates local taxation. By constitutional limitations the state and county tax rate may not exceed 66⅔ cents on

the hundred dollars' worth of property.[1] As the present state rate, inclusive of the school tax, is forty-three cents on the hundred dollars, only twenty-three and two-thirds cents are left for county purposes. This would be in many cases too small to supply the needs of the county government. The General Assembly, however, can authorize any county Board of Commissioners to go beyond this rate. Such excess must, however, be by special act of the General Assembly. So numerous have been such acts that in 1897 the special taxes levied in the counties amounted to more than two-thirds of those levied without specific authorization.[2] Municipal taxation may not exceed one per cent. unless by act of the General Assembly.

General Finances

The annual receipts of the state treasury of North Carolina from sources other than taxation are about $400,000. The chief items composing this amount are: (1) interest on various productive stocks and bonds; (2) earnings of the penitentiary; (3) appropriations by the federal government; (4) various fees collected by state officials; (5) proceeds of the sale of various state publications.

The state owns 30,002 shares of stock in the North Carolina Railroad Company. The annual income from this stock is at present $195,013 and after 1900 it will be $210,014. The state also holds 12,666 shares in the Atlantic and North Carolina Railroad Company. In 1898 these shares paid into the treasury as dividends $12,666.[3] Besides shares in railroads, the state holds $136,750 of its

[1] This limitation is the joint product of two provisions in the constitution: (a) the combined county and state poll tax must not exceed $2.00; (b) the poll tax must be equal to the tax on $300 worth of property. See Constitution of North Carolina, art. V, sec. 1.

[2] Report of Auditor 1897. The amounts were respectively: regular county taxes, $630,478.14; special county taxes, $433,690.56.

[3] This amount is usually $25,332, but one-half of the payment was not made in 1898 before the publication of the Auditor's Report.

own four per cent. bonds, and the state board of education also holds a large amount of the state funded debt. Certain bonds of Alexander county are owned by the state, and by an agreement with that county are being paid off at the rate of $1,000 per year. From all these sources the state received in 1898 the sum of $216,854.

The earnings of the penitentiary are applied to the support of that institution and amounted in 1898 to $94,942.41. The federal government appropriated $39,000 in the same year to the state agricultural colleges and to the North Carolina Experiment Station. The fees collected by state officials, together with the proceeds from the sale of state publications, *e. g.* journals, laws, codes, colonial records, etc., with various miscellaneous items, were, in 1898, $17,225.08.

The non-tax receipts thus amounted in 1898 to $368,-021.49. No exceptional item is contained in this amount, and this sum may be taken as the normal amount of the non-tax receipts of the state.

During the year 1898 the receipts of the state government amounted to $1,334,082.24, so that the amount raised by taxation in that year was $966,060.75.[1] The various taxes levied to raise this sum are described and discussed in the remainder of this paper.

Section 4864 of the Code of North Carolina requires the treasurer to "furnish the General Assembly, at the commencement of each session, with estimates of the expenses of the State government and the rates of taxation necessary to pay the same for the two years next succeeding the close of the last fiscal year, with a scheme in the form of a complete Revenue Bill, to sustain such estimates." The most variable part of the Revenue Act is the rate of the general property tax and of the poll tax. If the General Assembly

[1] Of this sum, $61,377.94 was paid into the treasury for examinations of fertilizers by the Agricultural Department. This is a fee rather than a tax, and will not be discussed below. Deducting this amount, the sum raised by taxation proper was, in 1898, $904,682.81.

finds that existing taxes do not bring in sufficient revenue, the easiest way to make sure of an increase is to raise these rates.

The state constitution requires that, "Every act of the General Assembly levying a tax shall state the special object to which it is to be applied and it shall be applied to no other purpose." In accordance with this provision, the general property tax is divided into three levies for distinct purposes, viz. state purposes, school tax, and pension tax. The school tax is paid to the county treasurers, and the pension tax is paid to the state treasurer and is kept in a distinct fund, but in general the funds of the state are not segregated for specific purposes. The income from the state's holding of North Carolina Railroad stock is specifically devoted to the payment of certain interest charges, but no separate fund is made of these receipts. So, also, the income of the state from certain license taxes is devoted by law to the payment of the interest on another part of the state debt, but such income is simply added to the income from other sources, and no separate account kept.[1] The only parts of the state's revenues which are kept entirely distinct are the pension fund and the education fund, the latter of which is not derived from taxation.

A summary of the state's receipts and expenditures in 1898 is here appended:

RECEIPTS.

Public Taxes per Sheriffs and Tax Collectors	$605,350.99
Tax on Railroad Property	70,598.98
Tax on Steamboat and Canal Property	631.65
Tax on Telegraph and Telephone Companies	1,744.17
Tax on Bank and Building and Loan Stock	12,290.61
Special Tax to pay Pensions	112,848.49
License Taxes paid direct to State Treasurer	43,358.27
Tax on Gross Earnings	57,628.67

[1] "All state taxes levied and collected from professions, trades, incomes, merchants, dealers in segars, and three-fourths of all the taxes collected from wholesale and retail dealers in spirituous, vinous and malt liquors shall be held and applied to the payment of the interest on said bonds." Code of North Carolina, sec. 3576.

Railroad Dividends	207,679.00
Income from other Investments	9,175.50
North Carolina Penitentiary Earnings	94,942.41
Fees (including Tonnage Tax on Fertilizers)	64,399.83
United States Government Appropriation	39,000.00
Sale of State Publications	2,828.17
Miscellaneous	11,606.00
	$1,334,082.24

EXPENDITURES.

Interest on the State Debt[1]	$295,606.00
Pensions	100,840.50
Hospitals for the Insane	185,450.00
Institutions for the Deaf, Dumb and Blind	152,500.00
Educational Institutions	120,750.00
Executive Departments, including Boards and Bureaus	118,059.59
Judiciary	63,061.88
Penal Institutions	95,992.41
Orphan Asylums	15,000.00
North Carolina Experiment Stations	15,000.00
State Guard	31,215.00
Appropriations to Public Schools	10,586.70
Miscellaneous	79,910.03
	$1,283,971.11

Development of Taxation[2]

1776-1850. During the colonial period, direct taxation was seldom used in North Carolina. Import duties, especially on wine and spirits, yielded revenues sufficient for the needs of the government except in extraordinary emergencies.[3] During the Revolutionary War the principal expenses of the state were met by issues of paper money. To the acts authorizing such issues, a clause was usually added providing for the redemption of the notes by the levy of certain taxes. These taxes nearly always took the form

[1] The state debt of North Carolina amounts in all to $6,331,770. Of this sum, $3,370,850 is in four per cent. consolidated bonds; $2,720,000 is in six per cent. construction bonds, and the remainder is the old debt of the state, exchangeable into four per cent. consols before Jan. 1, 1899.

[2] So far as I have been able to ascertain, the history of taxation in North Carolina has never been written.

[3] Iredell's Revisal (1791), p. 117, f. 15; p. 169, f. 3; p. 223, f. 4.

of an excise duty or a small poll tax.[1] Taxation within the parishes was upon property and by poll, as is shown by the provisions of the Poor Law of 1777,[2] which enacted that the overseers of the poor "may lay a tax, not exceeding one shilling for every hundred pounds of taxable property." This property tax was joined with a poll tax levied upon every one not owning property worth one hundred pounds.

With the surrender of the right to lay import duties at the adoption of the federal constitution, freer resort was necessarily had to the taxation of land and polls. Land outside of towns was taxed by area, irrespective of quality or value; but town lots were taxed according to value.[3] Unmarried freemen, of legal age, were required to pay a poll tax equal to the tax on one hundred pounds.[4] In 1783 the General Assembly taxed cattle and slaves at a certain fixed valuation, cattle being rated at twenty shillings per head and slaves at from twenty to forty pounds according to age. Carriages, phaetons, stage wagons and other "carriages of pleasure" were taxed five shillings specie per wheel. But in 1784 all freemen were taxed and in place of the taxation of slaves according to a fixed value, the same poll tax was placed on them as on freemen, except that slaves above the age of fifty were not taxed. The taxes on cattle and carriages were abolished.

Such a system of taxation was adapted only to a community where wealth was evenly distributed among the taxpaying class and to a condition where the public charges were so light that inequalities in the burden borne by different persons were inappreciable. The state confined itself to the function of governing. It provided neither hospitals nor common schools. Land was the chief form of wealth, and in value slaves were far in excess of

[1] *Ibid.*, p. 16, f. 14; p. 194, f. 17; p. 223, f. 5.

[2] Laws of the General Assembly, ch. 117 (Martin's Revisal).

[3] The same tax was paid on every hundred pounds' value of town lots as on 300 acres of land. Laws of the General Assembly, 1784, ch. 1, sec. 1 (Iredell).

[4] Laws of General Assembly, 1783 (Iredell).

any other form of personal property. To meet the small fiscal needs of the government, the General Assembly taxed the commoner forms of wealth to the exclusion of other kinds. These represented tax-paying faculty in a crude way and had the eminent advantage of being easy to reach.[1]

The system of assessing all land at a uniform rate per acre could not last long. As the poorer lands were taken up, the inequality became more and more glaring. Taxation according to value came into vogue and a new system of assessment was devised. Landowners were required in 1819 to list their lands at a sworn valuation, which was required to be at least as high as that put thereon by the Congressional Assessment of 1815.[2]

For thirty years after 1819, there was hardly a change in the tax laws of North Carolina. With some increase in the number of occupations subject to a license tax,[3] and with unimportant changes in the amount of the poll tax, the system remained in vogue until 1850.[4] The rate of taxation during this time remained fixed at six cents on the hundred dollars for property and twenty cents on each taxable poll.

Several times between 1825 and 1850, the prevailing

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[1] The tax returns were made in the following form: (a) name of tax payer; (b) quantity in each tract of land; (c) town lots; (d) number of free polls; (e) number of black polls; (f) amount. See Laws of General Assembly, 1784, ch. 1, sec. 7.

While land and slaves were the chief subjects of taxation in this period, license taxes were not unknown. Each revenue act changed these taxes, but in general they were imposed on inns, pedlers, playing cards and stud-horses. The General Assembly in at least one instance in these early days used its taxing power to destroy: "A. B. C. & E. O." tables were taxed $250 per annum. (Laws of North Carolina, 1785, ch. 8.)

[2] Laws of General Assembly, 1819, ch. 1.

[3] Some of the license taxes introduced during this period were those imposed upon merchants, itinerant players, negro-traders and auctioneers.

[4] During this period the inheritance tax was introduced, but its returns were very small. For description of this law, see below under "Inheritance Tax."

system of taxation seemed on the point of failing to furnish adequate revenue, but some lucky chance always gave the old system a new lease of life. The first occasion of trouble was the necessity of redeeming the notes issued in 1814, 1823 and 1827, the proceeds of which had been appropriated to the Literary Fund. The finances of the state were in such poor condition that it became necessary to borrow largely from the Literary Fund, which had been created for educational purposes.[1]

1850-1898. Until about 1850, not only in the state of North Carolina but throughout the South, tax receipts were derived in the main from three sources: (*a*) land; (*b*) polls; (*c*) licenses. The growth of towns, with their trade and small manufactures, and the increase of wealth in the shape of personal property had early suggested to many minds, the advisability of a redistribution of the burden of taxation. The treasurer of North Carolina in his report for 1834 strongly urged the taxation of personal property. The necessity for any change was, however, temporarily averted by the dissolution of several banks in which the state had large interests. The money paid over

[1] The expenses for 1827-1828 amounted to $80,890.41. The chief items were:

General Assembly	$36,658.23
Judiciary	20,799.47

The receipts from taxation in the same year were:

Land Tax	$24,867.49
Town Property Tax	1,402.86
Poll Tax	26,932.21
Stud-Horse Tax	1,484.82
Gate Tax	202.40
Store Tax	6,271.68
Artificial Curiosity Tax	507.60
Pedler Tax	935.30
Billiard Table	470.00
Fines	1,200.00
	$61,883.16

See Auditor's Report for 1828.

by the general government in 1838 was also devoted in part to supplying deficiencies of state revenue.

In 1850 the fiscal demands of the state had, however, grown too pressing to permit of longer delay. The General Assembly in this year began the taxation of personalty by imposing (1) a tax of three cents on each dollar of net interest received from loans, if such interest amounted to more than six dollars; (2) a tax of three cents on each dollar of profits, and (3) a tax of twenty-five cents on each hundred dollars employed in the slave trade. Plate, jewelry, and watches were also taxed.[1]

Since the Civil War the tax rate has been raised and two important changes have been made in the existing system: (1) the taxation of personalty of all kinds exactly as realty; (2) the introduction of corporation taxes. These changes are described below in connection with the particular taxes affected.

General Property Tax

Contrary to the tendency in many states, taxation of property has been of increasing importance in the financial system of North Carolina, from its inception to the present time. Up to 1850, the poll tax rivaled it in productiveness; but when, in that year, what had been a real property tax became practically a general property tax, its return to the state treasury soon outstripped the yield of the poll tax. Since the war, the poll tax has not been paid to the state treasury, and the general property tax has been the mainstay of North Carolina's fiscal system. The increasing importance of this tax is shown by the rise in its rate from time to time. From 1819 to 1855 the rate on property remained stationary at six cents on the hundred dollars. In 1855, this was raised to twelve cents and in 1856 to fifteen cents. An increase in the kinds of taxable property has accompanied the increase of rate.

[1] Public Laws of North Carolina, 1850, ch. 121.

The present rate is forty-three cents,[1] apportioned to various funds as follows:

General state purposes	21⅔ cents.
Pensions	3⅓ "
Public schools[2]	18 "

The present constitution of North Carolina provides that " Laws shall be passed taxing by a uniform rule all moneys, credits, investments in bonds, joint-stock companies or otherwise, and also all real and personal property according to its true value in money." [3] Prior to the adoption of the present constitution in 1868, there had been no constitutional principles governing the property tax. The amendments of 1835 had enunciated certain rules with regard to the capitation tax but had left the General Assembly free to levy other taxes as it might see fit. The clause of the present constitution providing for the exemption of certain forms of property is as follows:

" Property belonging to the State, or municipal corporations shall be exempt from taxation. The General Assembly may exempt cemeteries and property held for educational, scientific, literary, charitable or religious purposes; also, wearing apparel, arms for muster, household and kitchen furniture, the mechanical and agricultural implements of mechanics and farmers; libraries and scientific instruments, or any other personal property, to a value not exceeding three hundred dollars." [4]

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[1] The rate was fixed at forty-six cents by the General Assembly of 1897, but as the rate was not in such proportion to the poll tax as the Constitution requires, the Supreme Court of North Carolina held that the clauses of the revenue act fixing such rate and the rate of poll tax were void and the corresponding clauses of the Revenue Act of 1895 still in force; *vide* Russel, Gov. *vs.* Ayer, Auditor (North Carolina Reports, Feb. term, 1897, No. 151, Wake Co.).

[2] As has been said above, the tax for public schools while levied by the General Assembly is a county tax in collection and distribution.

[3] Constitution of North Carolina, Art. 5, Sec. 3.

[4] Constitution of North Carolina, Art. 1, Sec. 5.

Over two-thirds of the total amount raised by taxation for state purposes in North Carolina is from the general property tax. More than one half of the school revenue and the larger part of county and municipal revenue is from the same source.

Assessment and Collection. The system of assessment used in North Carolina is that popularly known as the "listing system." Every fourth year, the board of commissioners of each county appoints "three discreet freeholders" in each township who "ascertain the true value in money of every tract or parcel of land or other real estate with the improvements thereon and personal property." This board of three assessors is empowered to administer oaths. The assessment thus made continues in force for four years unless structures of the value of $100 are erected or destroyed on the lands thus assessed. In such case, the assessment is to be changed. The assessors must advertise at five places in the township and must attend at two or more places for the purpose of receiving lists and assessing property. The property owner must appear before them and list his property, which they shall value. The assessment made by this board must be returned to the county commissioners, who with the chairmen of the township boards form a "board of equalization," with power to raise or lower any valuation put on any piece of real or personal property by the township boards.

In years other than assessment years, the county commissioners appoint one list-taker for each township. All lands in the township are listed by him at the valuation previously assessed on the same by the board of assessors. Personalty, however, is listed anew each year, and its valuation may be changed.

Every property owner must appear before the list-takers and assessors and file a list of his property.[1] This list includes the following items:

[1] The only persons who can fill up the list by agents are females, non-residents of the township, and persons physically unable to attend and file their lists.

1. Quantity of land owned in township.
2. Horses, mules, jacks, jennies, goats, cattle, hogs and sheep, separately with the true value thereof.
3. Farming utensils, tools of mechanics, furniture, firearms, provisions, libraries and scientific instruments, separately, with the value thereof.
4. Money on hand, including all funds invested within thirty days before in United States bonds or other non-taxable property.
5. The amount of credits, including interest, whether in or out of the state. Bank deposits and property in the hands of commission merchants are deemed credits. If any credit be not regarded as entirely solvent, it is given in at the market or current rate. The party may deduct from the amount of credits owing to him the amount of collectable debts owned by him as principal debtor.
6. Building and loan association stock.
7. Money investments, stocks and bonds of whatever nature except bonds of the United States and of North Carolina, and such other bonds as may have been expressly exempted from taxation by law in this state.
8. All other personal property whatever.
9. The gross income of the party the twelve months preceding, not derived from property already taxed, and also income beyond one thousand dollars, derived from salaries or fees or both.

The law further provides that the taxpayer must swear that the list handed in by him contains all the property which he is required to list and that the value fixed thereon is a true valuation. It is a misdemeanor punishable with fine or imprisonment or both for a taxable person to refuse to list, or to refuse to answer any questions respecting his property. The board of county commissioners of each county reviews the tax lists returned and has power to raise or lower valuations. If any property escapes taxation and such escape is afterwards discovered, back taxes for five years may be collected, and in the case of lands twenty-five per cent. extra tax may be added. Any person failing to list poll or property is charged twice the amount of what would otherwise be exacted.

The sheriff is the officer of collection; he is required to enforce collection by the sale of personal property if sufficient, and if not, by selling the real estate of the delinquent. A new instrument for the collection of taxes was introduced

by the General Assembly of 1897, viz., imprisonment. The law proving impracticable was repealed in 1899.

Defects of the Property Tax. The system of assessment outlined above is free from some of the conspicuous defects of the general property tax in other states. The assessors are appointed by the county commissioners and are not elected by the people. Hence, they do not have that inducement to curry popular favor by undervaluation, which has become in many places one of the gravest evils of the general property tax. Then, again, the assessment for county purposes being based on the same list as the state assessment, there is lacking the temptation to undervalue property in order to lighten the state tax on the county in proportion to that in the rest of the state. "Boards of Equalization" in the Western sense, are not needed. The valuation of all railroad property in the state has been placed, as described below, in the hands of a single commission, and irregular assessment has thus been prevented.

Many defects do, however, appear in the listing of property. In his report for 1897, the auditor states that only one county in the state had returned a uniform number of acres of land for taxation during the previous five years.[1] Slight variations in the number of acres of land returned are, however, of little importance as compared with the great question of the proper return of personalty. There can be no doubt that in North Carolina as in most other states in the Union an enormous amount of personal property escapes taxation. This happens in two ways: (1) visible personal property, such as furniture, cows, etc., is grossly undervalued; (2) much invisible personal property is not listed. The first happens to some extent with respect to all kinds of property but more largely with personalty, since the value of a particular horse is not usually known to the assessor and the animal is less valuable to many

[1] The auditor believes more regularity in the returns can be secured by employing better men as list-takers and assessors, receiving a higher salary.

owners just at listing time. The second manner of escape is peculiar to personal property. Stocks, bonds, and credits are difficult to reach and the memory of the owner is apt to prove treacherous. The following table will show how the amount of stock varied in certain counties:

County.	1893, Stock, etc.	1894, Stock, etc.	1895, Stock, etc.	1896, Stock, etc.	1897, Stock, etc.
Cabarrus	$99,000	$103,000	$81,000	$31,000	$20,811
Guilford	93,000	42,000	9,000	78,000	13,725
Forsyth	50,000	140,000	32,000	18,000	267,579
Rowan	444,000	42,000	16,000	299,000	12,685
Durham	265,000	104,000	1,028,000	1,344,000	1,410,000
New Hanover ...	195,425	37,937	114,508	67,650	10,200
Catawba	30,779	40,804	21,817	2,296	4,709

One part of the North Carolina listing act appears to have been especially intended to aid the "tax-dodger" in accomplishing his designs. Paragraph 7, section 16, of the assessment act declares: "The party may deduct from the amount of his credits owing to him the amount of collectable debts owing by him as principal creditor." This provision may be attacked from two sides. In the first place, why should a taxpayer be allowed to deduct his debts from his solvent credits more than from any other item? He can only reduce his taxes on account of his debts, if his property happens, in part at least, to take the form of solvent credits. This is an injustice to other taxpayers. If allowance is to be made for debt, it should be made in all cases. In the second place, such an exemption furnishes a cover for evasion of taxation. If a taxpayer owns a mortgage, he may set off against this credit his real or fictitious debts. If this privilege were not allowed him, he would be obliged to list his mortgage, since it is a matter of public record and he would not dare to neglect to give it in to the assessor or list-taker. But as it is, who can say what a man owes? Even though the assessor knows of many solvent credits belonging to such taxpayer, he can have no means of ascertaining the offsetting indebtedness, since the taxpayer is not required to enumerate or state his

debts. He simply makes a sworn statement that his solvent credits exceed his debts by a certain amount.

Undoubtedly, the property tax in North Carolina is more nearly a measure of ability than in many American commonwealths. In a state so largely rural, where much is known of neighbors' affairs, tax-dodging must of necessity be less than in states with more and larger cities, where the public inspection of tax-books is neither common nor practicable.

License Taxes

The license tax on inns was one of the sources of colonial revenue in North Carolina. During the greater part of the slavery period, licenses furnished the only means by which the business element in the community was made to share the burdens of government. Since the Civil War, the number of license taxes has been largely increased and almost every form of business now bears its tax. The taxation of corporations in North Carolina has proceeded farthest along this line.[1]

Most license taxes are imposed for the sole benefit of the state. Some of them, however, are paid partly to the county. The total amount received by the state for licenses in 1898 was $206,321.60. Of this amount $100,986.94 was paid directly into the state treasury by licensees while the remaining $105,334.66 was collected by sheriffs in the various counties. The several license taxes[2] and the revenue derived from each are as follows:

(1).* Merchants' tax;[3] an annual tax on all persons con-

[1] While such taxes are really license taxes, since they are levied on a particular form of business, whether carried on by a corporation or by an individual, yet for convenience I have classed all license taxes on business, usually carried on by a corporation, as corporation taxes.

[2] Taxes marked by an asterisk were imposed for the first time by the General Assembly of 1899. No returns of these taxes will be procurable until December, 1899.

[3] This tax is the successor of a tax of two per cent. on the purchases of merchants, which yielded, in 1898, the sum of $27,686.11.

ducting the business of buying and selling merchandise. The amount of the tax is dependent on the capital invested, ranging from one dollar on a capital of $500 or less to $250 on a capital of $150,000.

(2). Liquor dealers' purchase tax; a tax of two per cent. on the purchases of such dealers. Amount of revenue in 1898, $7,712.95.

(3). Druggists dealing in liquors; annual tax of $50 or in some cases $25. Revenue in 1898, $659.40.

(4). Liquor dealers; a semi-annual tax ranging from $10 to $100 according to kind and quantity of liquor sold. Only the amount collected from wholesale dealers is paid into the state treasury. Revenue from the other classes goes to the county school fund. Amount of revenue in 1898, $1,200.

(5). Commission merchants; one per cent. on all commissions received by such merchants. Revenue in 1898, $631.70.

(6). Dealers in cigars, cheroots, manufactured smoking and chewing tobacco, and cigarettes; these pay a tax regulated in amount by their sales. Revenue in 1898, $12,717.70.

(7). Mercantile agencies; an annual tax of five dollars for every state and territory embraced in their reports. Revenue in 1898, $505.00.

(8). Sewing-machine manufacturers, selling their goods in the state; an annual tax of $350 per annum. Revenue in 1898, $2,564.50.

(9). Livery stables; a semi-annual tax of 50 cents for each horse or mule kept. Revenue in 1898, $1,049.84.

(10). Traders in horses or mules; an annual tax of $25. Revenue in 1898, $2,915.90.

(11). Dealers in pianos and organs; an annual tax of $10 on each brand sold. Amount of revenue in 1898, $409.14.

(12). Pedlers; an annual tax of $5 to $50 for each county in which they do business. Revenue in 1898, $1,424.75.

(13). Pawnbrokers; an annual tax of $50. Revenue in 1898, $50.

(14). Lightning-rod dealers; an annual tax of $20 for each county in which they sell. Amount of revenue in 1898, $240.

(15). Itinerant clock and stove pedlers; an annual tax of $100 for each county in which they sell. Amount of revenue in 1898, none.

(16).* Feather-renovaters; an annual tax of $5 for each county in which they do business.

(17).* Cotton-compresses; an annual tax of from $10 to $100 according to number of bales of cotton pressed.

(18).* Cotton-factors; $2.50 to $10.00 per annum according to the population of the town in which the business is carried on.

(19). Auctioneers; $2.50 to $15.00 per annum according to population of town. Amount of revenue in 1898, $51.34.

(20).* Bicycle dealers; an annual tax of $5 or $10, according to population of town.

(21).* Real estate dealers and rent collectors; an annual tax of $2.50 to $15.00 according to population of town.

(22).* Buyers and sellers of fresh meats; an annual tax of $3.00 to $7.50 according to population of town.

(23).* Wood and coal dealers; an annual tax of $5 to $20 according to population of town.

(24).* Collectors of accounts; an annual tax of $10.

(25).* Photographers; an annual tax of $5.

(26).* Ice manufacturers; an annual tax of $10.

(27).* Laundrymen; an annual tax of $10.

(28).* Lumber dealers; an annual tax of $10.

(29).* Undertakers; an annual tax of $10.

(30). Hotels; an annual tax of twenty-five cents per room if the charge for transient custom is less than two dollars per day. If the charge is two dollars per day or more, the tax is fifty cents per room. Revenue in 1898, $1,014.96.

(31). Lawyers, physicians and dentists; an annual tax of $5. Revenue in 1898, $12,227.81.

(32). Theatres; an annual tax of $15 to $200 according to the population of the town in which it is situated. Revenue in 1898, $787.50.

(33). Theatrical companies performing in unlicensed halls; a tax of $10 for each exhibition. Revenue in 1898, $43.00.

(34). Concerts and musical entertainments in unlicensed halls; a tax of $3 for each performance. Revenue in 1898, $207.75.

(35). Lectures for reward in unlicensed halls; a tax of $3 for each lecture. Revenue in 1898, $6.

(36). Museums, waxworks or curiosities of any kind; a tax of $3 for each exhibition. Revenue in 1898, $282.50.

(37). Circus or menagerie; a tax of $200 for each day or part of day. Amount of revenue in 1898, $2,539.00.

(38). All companies exhibiting for reward other than those mentioned in the preceding sections; a tax of $5 for each performance. Revenue in 1898, $454.50.

(39). Gift enterprises; a tax of $20. Revenue in 1898, $916.92.

(40). Lotteries; a tax of $1000. No revenue in 1898.

(41). Slot machines where return is uncertain; a tax of $100. No revenue in 1898.

(42). Billiard and pool tables, bowling alleys, etc.; a tax of $20 unless kept in connection with a place where liquor is sold, in which case the tax is $50. Revenue in 1898, $1,529.37.

(43). Skating rinks, merry-go-rounds, switch-back railways, etc., or stand or place for any other game or play with or without a name; a tax of $20. No revenue in 1898.

(44). Dealers in theatre tickets; a tax of $5. No revenue in 1898.

(45). Public ferries, bridges and toll gates; a tax of one per cent. of gross receipts. Revenue in 1898, $275.52.

(46). Gypsies or any other persons offering to tell fortunes for reward; a tax of $150 for each county in which they offer to practice their craft. No revenue in 1898.

Besides the license taxes enumerated above, there are some others which will be treated under the head of corporation taxes, since they are levied mainly on corporations. The taxes the treatment of which is thus postponed are those on (1) private business corporations, (2) insurance companies, (3) banks, (4) telegraph and telephone companies.

It is obvious that the license tax in North Carolina is not solely a fiscal measure. To make, for example, an itinerant clock-pedler pay $100 for each county in which he trades is simply a declaration that there shall be no clock-pedlers. Many of the objects of license taxation are luxuries; *e. g.*, tobacco and liquor sales and public amusements. These taxes are frequently said to operate to some extent to keep shows and theatrical companies out of the state and so to keep the people from "wasting their money." In other words, they are in some degree sumptuary legislation. The most productive license taxes are those upon ordinary businesses. Such a tax as that on sewing-machine manufacturers seems based on a wrong principle, since it tends seriously to limit competition. Not only must the purchaser of a machine pay part of the license tax of $350 but the fact that such a license is imposed, tends to establish an even higher figure; for the sewing-machine manufacturer before he pays his tax must have the hope of a larger gain than he would otherwise require.

The license taxes are collected, for the most part by the sheriff. Any person who practices any trade or profession or uses any franchise taxed by the laws of the state without paying the tax is subject to a fine or to imprisonment and to an additional penalty of fifty dollars. The license taxes on shows, curiosities and lectures are poorly collected. The auditor in his report for 1896 jocosely but pertinently remarks: "I am satisfied that these taxes are not looked after as they should be. Sheriffs are humane people generally and of most kindly disposition. I respectfully suggest that some method be devised by which county

authorities can be impressed with the importance of reading carefully the revenue act, then inwardly digesting it. The State Treasury will I am sure be much the gainer thereby."

Corporation Taxes

Under the present constitution of North Carolina, the property of corporations and individuals must be taxed alike. Corporate property is assessed for state, county, and municipal purposes. But, although the rate is the same for all property, the methods of assessing corporations differ from those used in the case of individuals. The mode of collecting many corporate taxes differs also from the ordinary methods used. And, finally, certain taxes have been levied on corporations, or rather on businesses usually carried on by corporations.[1] These taxes are called license taxes and as such are within the constitutional provisions.

Assessment of Corporations. The property of railroad, telegraph, telephone, sleeping car, refrigerator car, freight car, canal and steamboat companies is assessed by a board of state railroad commissioners. In the case of railroad, canal and steamboat companies, the method of procedure is as follows: All real and personal property, belonging to the corporation, and situated outside of the right of way, is listed in the county where located. The valuation of all other property belonging to any such corporation is made by the commissioners. The companies are required to file with the commissioners, answers to a series of questions. The commission may also "summon and examine witnesses and require books and papers to be submitted to them."[2]

On the basis of such reports and testimony, the commissioners determine the valuation of the property, "ascer-

[1] There is no double taxation of stock and property in North Carolina. Sometimes, as in the case of banks, the stockholder is made to pay local taxes, but in such cases the company is untaxed.

[2] Machinery Act, 1899, Secs. 44 and 49.

taining such value from the earnings as compared with the operating expenses and taking into consideration the value of the franchise as well as other conditions proper to be considered in arriving at the true value of the property as in case of private property."[1] The aggregate value of each company's property is apportioned to each county in the same proportion that the length of such road or line in each county bears to its entire length.[2]

The method of assessing telegraph and telephone companies varies somewhat from that described above. These companies are required to file annually with the auditor of the state a sworn statement,[3] showing:

(1). The total capital stock.
(2). The number of shares.
(3). The principal place of business.
(4). The market value of its shares.
(5). The real and personal property subject to local taxation.
(6). The real estate of the company, situate outside the state.
(7). All mortgages on its property.
(8). The length of the lines both in and out of the state and in each of the counties and townships of the state.

If the auditor deems the statements filed insufficient, he may call for further information. The reports, collected by the auditor, are submitted to the board of railroad commissioners, which ascertains first the value of the entire property of the company. The valuation is made on the basis of the market value of the shares. If the property is encumbered by a mortgage, the amount of the mortgage indebtedness is to be added to the value of the shares. Having ascertained the value of the entire property, the value of real estate owned by the company and situated outside of the state is deducted from the total valuation. The board next assesses the property within the state by considering what proportion the length of the lines operated by the company within the state bears to the total length

[1] Machinery Act, 1899, Sec. 45.
[2] *Ibid.*
[3] Revenue Act, 1899, Secs. 37, 39, 46 and 47.

of such lines.[1] In the case of express, refrigerator car and sleeping car companies, the method pursued is the same as that followed in taxing telegraph and telephone companies, except that in place of the "length of lines of such companies," the question considered is the "length of lines over which such company operates." The value of each company's property is apportioned to each county in the proportion that the length of such road or line in each county bears to the entire length.

The taxable valuation of all other corporations except insurance companies is based upon answers to the following questions:

(a). Name of corporation?
(b). Amount of capital stock authorized and the number of shares?
(c). The market value, or if no market value, the actual value of the shares?
(d). The assessed valuation of all real and personal property?
(e). Amount of capital stock paid up?

The assessed valuation of the real and personal property of the corporation is deducted from the aggregate value of its shares and the remainder is listed as the value of its capital stock. It is very plain that by this system a considerable portion of corporate property may escape taxation. No account is taken of bonded indebtedness which may represent a large part of the tax-paying ability of the corporation. Let us suppose, for example, a corporation with a paid-up capital of $50,000 and a bonded debt of $50,000. Now, clearly this represents a business which ought to pay taxes on $100,000. If this corporation requires large buildings and other visible property, its chance of dodging taxation is small. But, if a large part of its capital is in forms which can be converted into a "credit" by depositing it in bank, the bonded indebtedness may be offset against this credit. In this way many corporations may escape taxation on large portions of their property.

[1] Revenue Act, 1899, Sec. 42.

License Taxes on Corporations. A license tax is imposed on certain kinds of business conducted almost exclusively by corporations. The charge is either a fixed sum or a percentage of gross receipts. The corporations subject to such charges, are: (1) insurance companies, (2) banks, (3) telegraph companies, (4) telephone companies, (5) express companies.

Insurance companies, both fire and life, pay an annual license tax and also a gross-receipts tax. The annual fee is two hundred dollars for a fire insurance company and two hundred and fifty for a life insurance company. Both kinds of companies pay a two per cent. tax on their gross receipts, but if one quarter of the entire assets of the company is invested in certain prescribed securities, viz.: North Carolina state, county or municipal bonds, or mortgages on real property in the state, the rate of taxation on gross receipts is only one per cent.

With the exception of National Banks, every person or company doing a banking business is taxed according to the capital employed, as follows: On a capital of ten thousand dollars or less, twenty-five dollars and two dollars for each additional thousand dollars of capital; also twenty-five dollars additional for each county in which any of said banks may have an agency.

Telegraph, telephone, and express companies pay a two per cent. tax on gross receipts. No county or corporation may impose any additional tax except an ad valorem tax.

A franchise tax of fixed amount is levied on all "private business" corporations, except railroads, banks, and insurance companies, in proportion to their capital stock. This tax ranges from five dollars, for corporations having a capital stock of $25,000 or less, to $500 for those whose capital exceeds one million dollars.

Collection of Corporation Taxes. Taxes in North Carolina are ordinarily collected by the sheriff, who accounts with the county treasurers and the state treasurer. In general license taxes are also collected by the sheriffs, but the

license taxes on corporations are paid directly to the state treasurer. Certain corporations, viz.: railroads, banks, building and loan associations, telephone and telegraph companies, also pay the property tax directly to the treasurer.

State, county and municipal taxes on corporations in North Carolina are ordinarily " stopped at the source." In the case of state and national banks, the stockholders pay the county and municipal taxes while the banks pay the state tax.

Productivity of Corporation Taxes. Just what part of the state's revenue is derived from corporations cannot be ascertained since only certain kinds of corporations pay directly to the state treasury. In 1898, banks, building and loan associations, railroad, telegraph, telephone, canal and steamboat companies paid a general property tax amounting to $98,385.87 directly to the treasurer of the state. In the same year, banks, building and loan associations, insurance, telegraph, telephone and express companies paid license taxes amounting to $98,848.90. So the corporations paid in 1898, nearly $200,000 directly into the state treasury.

The great number of corporations, such as cotton mills, lumber mills, tobacco factories, etc., do not pay directly but indirectly through the sheriff as individuals do. They are therefore not included in the figures just cited. It would probably be an under-estimate to say that, out of nearly one million dollars of public taxes paid to the state in 1898, corporate property paid $300,000, or nearly one-third.

Poll Tax

In origin the poll tax is coincident with the beginnings of taxation in North Carolina. Until near the middle of the century, it furnished more revenue than the general property tax.[1] This was in large measure due to the fact

[1] In 1827, for instance, the tax on lands and lots yielded $25,948.41, while the poll tax yielded $27,446.82.

that the taxes on slaves could be collected by sale of the slaves. The great importance of the tax is clearly shown by the fact that all of the constitutional amendments of 1835 concerned the poll tax. These amendments provided that the capitation tax should be equal throughout the state, and that all free males over twenty-one and under forty-five years of age, and all slaves over twelve and under fifty years of age, should be subject to a capitation tax, and that no other person should be subject to such tax. The capitation tax on slaves was in lieu of any other tax on such property.

In 1852, a part of the revenue derived from the poll tax was applied to the support of a state asylum for lunatics and idiots. In the constitution adopted in 1868, the poll tax was devoted to the support of the public schools and of the poor.[1]

The state treasury no longer derives any revenue from this source, but the proceeds of the tax form a part of the school and poor fund of the county in which it is collected. Since, however, the rate is prescribed by the General Assembly, it may properly be considered a commonwealth tax.

Rate. The provision of the constitution authorizing the poll tax is mandatory. It declares, "The General Assembly shall levy a capitation tax on every male inhabitant in the state over twenty-one and under fifty years of age, which shall be equal to the tax on property valued at three hundred dollars." The Supreme Court has recently held that if a revenue act does not preserve this proportion, the tax on both property and poll is void.

The present state poll tax is $1.29. The counties also have the privilege of levying a poll tax, but the state and county tax together must not exceed $2.00.[2] Not more than one-fifth of the revenue thus raised can be appropriated to the support of the poor. By the Constitution

[1] Constitution of North Carolina, Art. 5, Sec. 1.
[2] Constitution of North Carolina, Art. 5, Sec. 1.

of 1868, the county commissioners are empowered to exempt from this tax any persons who are too poor or infirm to pay it.

Collection. Much difficulty is experienced in the collection of the tax. The law provides that, "if any poll tax or other taxes shall not be paid within sixty days after the same shall be demandable it shall be the duty of the sheriff, if he can find no property of the person liable, sufficient to satisfy the same, to attach any debt or other property incapable of manual delivery due or belonging to the person liable or that may become due to him before the expiration of the calendar year." By means of such attachments in the hands of employers and others, many poll taxes which would not otherwise be collectable are paid. But even with the aid of this device the tax is poorly collected. The auditor in his report for 1896 estimates that only two-thirds of the whites and one-half of negroes above the age of twenty-one pay poll taxes. So difficult is the collection of this tax that in 1897 the General Assembly enacted that persons or corporations failing to pay any tax laid on them by law shall be guilty of a misdemeanor and punished by a fine not exceeding five hundred dollars or imprisoned not exceeding six months. This law was aimed, of course, at the man without property, the citizen who is liable only to the poll tax. Taxes due by any citizen with property are collectable without fines or imprisonment. It is quite possible that this act did not fall within the Constitutional provision prohibiting imprisonment for debts, but the law does not seem to have been practicable and was repealed by the General Assembly of 1899.

The amount raised by the poll tax is next in amount to that raised by the general property tax. In 1898, the return from state and county poll taxes amounted to $365,738.27, or nearly one-half of the sum raised for public schools, exclusive of sums raised in the larger towns for graded schools. Besides the poll tax levied by state and county, incorporated towns also impose poll taxes in North

Carolina. In some cases, in fact, in most of the larger towns, the municipal poll tax is far in excess of the combined state and county poll tax.[1]

Criticism. The poll tax of North Carolina is clearly a regressive tax of a very heavy kind. It amounts frequently to doubling the rate on small property owners. Let us suppose, for instance, two property owners, one owning property worth $10,000 and another owning property worth $300. If we levy on each a property tax of one and two-thirds per cent. (an average municipal tax in North Carolina) and a poll tax of $5, this amounts to taxing the richer man at a rate slightly above one and two-thirds per cent., while the poorer man has to pay $10 tax, or at the rate of three and one-third per cent. If a poor man has no property and thus escapes the payment of the poll tax the very existence of this tax is an inducement to him never to acquire any property, since from his first savings, the state, county and city take away as much as the savings bank would pay him, if he had $300. If he only saves $100, they take far more than such bank would pay him. That this is a real and an important consideration is revealed by statistics from Wake County given by the auditor in his report for 1896. Over sixty per cent. of the tax payers of this county pay on less than $500 of real and personal property and the auditor estimates that eighty per cent. of the tax payers of the entire state pay on less than $500 worth of property.

On such persons the poll tax weighs heavily. The richer man does not feel it, the man with no property largely escapes it, but upon the small property owner it hangs as an incubus. It is not a tax proportioned to ability. It is not even, according to the theory of the general property tax, proportioned to wealth. In what manner its advocates

[1] The rates in some of the largest cities in North Carolina are as follows: Raleigh, $3.70; Winston, $4.05; Charlotte, $3.00; Wilmington, $3.96. These are the municipal poll taxes; to them must be added the state and county taxes, nearly always equal to $2.00.

would justify the retention of the tax, is not clear. To most people who favor poll taxes, the old idea of paying the state for a service rendered probably constitutes the best argument in its behalf.

As has been said above, the poll tax is mandatory and no General Assembly can refuse to levy it. There is urgent need of a change in the constitution permitting the tax to be laid only on persons not paying an equal sum on property. While such a tax would be theoretically far from a just tax, it would yet be an improvement on the present system and would lift the dead weight which hangs so heavily on the small property owner.

Income Tax

For a considerable period before 1860, the income tax was an important element in the fiscal system of North Carolina. Taxation of personal property was at first a tax on the income from such property; but since the adoption of the present constitution, personal property has been taxed in all respects as real property. The present importance of the income tax is slight.

The constitution of North Carolina authorizes the taxation of incomes, provided that no income may be taxed when the property is taxed from which the income is derived. Acting under the limitations of this provision, the General Assembly has imposed the following taxes on incomes:[1]

" On the gross profits and the income derived from property not taxed, five per centum; on the gross incomes derived from salaries and fees, public or private, one-half of one per centum on the excess over one thousand dollars; on the gross incomes derived from other sources except such as are derived solely from property taxed, one-fourth of one per centum on the excess over one thousand to five thousand dollars, one-half of one per centum on the excess

[1] Revenue Act of 1898, Sec. 6.

over five thousand to ten thousand dollars, one per centum on the excess over ten thousand to twenty thousand dollars, and two per centum on the excess over twenty thousand dollars."

The purpose of the law seems to be to divide taxable incomes into three classes: (1) Incomes from property not taxed, *e. g.* State and United States bonds; on this class the rate is very high—five per cent. (2) Incomes from salaries and fees; in this class, only the excess above one thousand dollars is taxed and at the fixed rate of one-half of one per cent. (3) Incomes from other sources, except such as are derived solely from property already taxed.

The "machinery act" which always accompanies the "revenue act" requires that the tax list of each individual shall contain: "The gross income of the party the twelve months next preceding the first day of June in the current year derived from property not already taxed by the laws of this state with a statement of the source or sources from which it was derived and also his income over one thousand dollars derived from salaries or fees or both." Here taxable incomes are classed in two groups only: income from untaxed property and income from salaries and fees above one thousand dollars. This is the construction of the revenue act followed in the lists sent out through the state to the list-takers.

It is evident that one important form of income has been neglected in this system, *e. g.* the income from business profits. The professional man and the wage earner are taxed upon incomes of more than one thousand dollars. The third kind of income enumerated as taxable in the "revenue act" would apparently include the income from business earnings, since such earnings are not derived solely from property taxed. Actual procedure is based upon an arbitrary interpretation of the clause of the "machinery act" quoted. It has always been the custom, under the present constitution, to regard all profits from business of any kind as derived from the capital invested in the

business, and since the capital is taxed, the income is regarded as falling under the constitutional exemption. This question has not been brought before the courts because of the common opinion that the General Assembly has not taxed such incomes.

Criticism. It may be seriously questioned whether the construction of the constitution commonly held is the true one. The merchant or manufacturer with a capital of $5000, who makes an annual profit of $2000, pays taxes on his goods and hence is exempt on his income. The interest on $5000 is $300 and the excess of the merchant's gain above the ordinary return to his capital is $1700; but the state imposes no tax on his income, while his clerk receiving a yearly salary of $1200 must pay $1.00 to the state treasury. In both cases the income is the return to ability. It is difficult to see why one kind of ability is taxed and another exempted.

The income tax has a place to fill in the fiscal system of North Carolina. It should measure the tax-paying capacity of personal skill and ability of all kinds. It is now imposed only upon productive skill of certain kinds. Can there be any reason why the tax should not be imposed on business skill, even though such skill be exerted with the aid of some form of property? The return is no less a return to the skill. The property used has its value easily ascertainable and the interest on it can be deducted from gross earnings and the return to ability be thus ascertained.

A consistent income tax would affect all citizens, farmers, merchants, manufacturers, the return to whose skill exceeded a certain amount. If in addition the tax were made gradually higher as the income increased in amount, the income tax would be a valuable adjunct of the inheritance tax in introducing the principle of progressivity into the tax system of North Carolina. As stated above, the question of the legality of such a tax has never been before the courts, but it is difficult to see how the constitutional provision would interfere with the recommendation here made.

Business incomes are not incomes from property but from skill.

The income tax yielded in 1898 only $3,876.20. In considerably more than one-half of the counties of the state, no person was reported as in possession of a taxable income!

Inheritance Tax

In 1847, the General Assembly passed an inheritance tax law which with many changes remained in force until 1874, when it was omitted from the revenue act. By the original act, the widow and lineal decendants of the decedent were exempt from the tax.[1] In 1855, the exemptions were extended to include the following: (*a*) lineal descendants, (*b*) widow, (*c*) father or mother, (*d*) wife or widow of a son of the decedent, (*e*) husband of a daughter of the decedent. By the law of 1855 the tax was graduated according to the degree of relationship: one per cent. for brothers and sisters, two per cent. for uncles, aunts, or their descendants, and three per cent. for more remote relatives and strangers.[2]

The law of 1847, imposed a tax on inheritance only when the real estate was of the value of $300 and upwards and the personal property equaled or exceeded $200. Just before the war, the exemption was decreased to $100 and in 1866 it was entirely dropped. The rate of the tax varied from time to time. During the war it was doubled, but in the main the rate imposed by the Code of 1855 was retained by successive Assemblies.

Under this law very small returns[3] were made although the method of collecting the tax was eminently practicable. Administrators and executors were required to pay the tax;

[1] Laws of 1846-'47, ch. 72.

[2] Revised Code of 1855, ch. 99.

[3] The amount of the returns cannot be determined because of the method in which the auditor's report was formerly made, but the present auditor informs me that the returns were "practically nothing."

but the great difficulty was that the law exempted nearly every possible devisee from its payment.

In 1897, a new inheritance tax law was enacted by the General Assembly, which promised to be much more productive as a fiscal measure. It imposed on all legacies and inheritances, devised or descended to persons in the direct line, a tax of two-thirds of one per cent., and on all legacies and inheritances devised or descending collaterally, except such as were for charitable uses, one and one-half per cent. No administrator or executor was permitted to file his final account unless and until such taxes were paid. In 1899, the General Assembly repealed this law and there is no inheritance tax in North Carolina at the present time.

Criticism. While the inheritance tax of 1897 was far better than none, it does not seem to have been planned in accordance with any sound theory of taxation. There seems to have been no attempt to make the new tax in any way supplementary to the forms of taxation at present in use in North Carolina, viz., the general property tax and the poll tax. Can the inheritance tax be made to supply the deficiencies of such taxes to any extent? We have attempted in discussing the poll tax to show that this charge falls more heavily on the poor man than on the rich one. The same thing is true of the general property tax. To tax a poor man's holdings at the same rate as the richer man's can only be justified by the fact that the general property tax is a tax on property and not on ability. If taxation is to be just, the poll tax and the general property tax, the one a regressive tax and the other a constant tax, must be compensated for by some tax which will fall more especially on the property of the rich. The taxes which are especially fitted for use as compensatory or equalizing taxes are the inheritance and the income tax. The income tax is not used as an equalizing tax in North Carolina on account of supposed constitutional limitations. The inheritance tax is consequently left as the sole tax available for this purpose.

In order that the inheritance tax may accomplish its purposes as an equalizing tax, it is necessary in the first place that there should be an exemption of estates up to a certain amount, and that, in the second place, the rate should beyond that amount be progressive. There can be little doubt that the Supreme Court of North Carolina would declare such a tax constitutional. In the case of Pullen *vs.* Commissioners,[1] the court held that the inheritance tax was not a tax on property but was a tax on the succession. In this case, objection was made to the inheritance tax on the ground that it violated the constitutional provision requiring all property to be uniformly taxed. The court declared on this point:

"Undoubtedly if the tax in question must necessarily be regarded as a tax on property, the objection would be irresistible, since this property is not only taxed uniformly with the other property, but is subjected to taxation as a legacy in addition. But we do not regard the tax in question as a tax on property, but rather as a tax imposed on the succession, on the right of the legatee to take under the will, or of a collateral distribution in the case of intestacy. . . . Is there any reason why the state shall be denied the power to tax a succession whether it be by gift *inter vivos* or by will or intestacy? Property itself as well as the succession to it is the creature of positive law. The legislative power declares what objects in nature may be held as property; it provides by what forms and on what conditions it may be transmitted from one person to another; it confines the right of inheriting to certain persons whom it defines as heirs, and on the failure of such, it takes the property to the state as an escheat.

"The right to give and take property is not one of those natural and inalienable rights which are supposed to precede all government and which no government can rightfully impair. There was a time at least as to gift by will, when it did not exist; and there may be a time when it will

[1] 66 North Carolina Reports, 36.

seem wise and expedient to deny it. These are the uncontested powers of the Legislature upon which no article of the Constitution has laid its hands to impair them. If the Legislature may destroy this right, may it not regulate it? May it not impose conditions upon its exercise? And the condition it has imposed in this case is a tax."[1]

Under this decision there is ample scope for the adoption of an inheritance tax to act as the much-needed balance wheel in the tax system of the state. The distinction which the court has so forcibly drawn between a tax and a regulation of inheritance, leaves the General Assembly free to fashion an inheritance tax without being cramped by constitutional provisions. The inheritance tax ought to become in North Carolina the safety-valve of the tax system. It is impossible to estimate the probable yield of such an inheritance tax. But we may be sure that the returns would be sufficient to lighten appreciably the heavy load of regressive taxation.[2]

Conclusion

The basis of state taxation in North Carolina must remain for some time to come the general property tax. Constitutional provisions and economic conditions both lead to that conclusion. The practicable reform of the tax system of the state is along two lines: (1) the better assessment and collection of the general property tax itself; (2) the adoption and extension of such taxes as will counterbalance the lack of progressivity characterizing the general property tax.

The chief fault of the general property tax in North

[1] Quoted in Dr. Max West's "Inheritance Tax," pp. 98-99, in *Columbia College Studies in History, Economics and Public Law*, vol. iv.

[2] The return for 1898 from the now repealed inheritance tax law passed in 1897 was only $98.18, but there is reason to believe that the smallness of the amount was largely due to the lack of familiarity with the law on the part of the officers charged with its execution.

Carolina is, as has already been shown, the allowance of an exemption of debts to the taxpayer. With this removed, there is every reason to believe that a more honest return of solvent credits would be made than under the present system wherein the law favors fraud by rendering it impossible of detection. Even with this loophole of fraud closed, evasion of taxation will undoubtedly go on to a considerable extent. So long as large gains can be made by perjury, some personal property will go untaxed. It might be worth a trial, to see if lower rates of taxation would not bring in larger net revenues. In other words, might it not be better to differentiate the forms of taxable property, and to tax personalty at a lower rate than realty? The greater part of the personal property escaping taxation is undoubtedly held in the towns and pays a high municipal tax in addition to the state and county charges. For example, in 1897, the rates for state, county, and municipal purposes paid by citizens of Raleigh, Charlotte, Wilmington, and Winston, are, respectively, $2.28, $2.10, $2.52 and $2.31⅔ on the $100.00. Thus, in the towns, where the bulk of property which can escape taxation exists, the temptation to list falsely is strongest. If, on such property, the tax was exclusively a state tax, very much lower than at present, it might reasonably be hoped that the returns would be greater. Such a change would require a constitutional amendment in North Carolina and is not to be looked for in the near future.[1]

As an abstract principle of justice it may be held that personal property should always pay exactly the same tax as real property. At any rate, the constitution of North Carolina so asserts. But abstract principles and practical measures are frequently at variance, and it is surely of little satisfaction to the honest taxpayer to have the consolation of knowing that whether his neighbor escapes or not, still the abstract truth is enunciated by the constitution.

[1] The first taxation of personal property in North Carolina was made in the manner recommended here, an income tax being levied on the returns from money invested in certain ways.

The taxes which may be regarded as counterbalancing the lack of progressivity in the general property tax are the inheritance and the income tax. The need for these taxes is still further increased by the presence of the poll tax, characterized not only by lack of progressivity but by positive regressivity. The manner in which the poll tax is imbedded in the constitution, and the central position which it holds in the tax system of North Carolina indicate that the likelihood of its repeal is not imminent. The prevalent sentiment is that every person, however poor, should contribute something to the support of the government. But even if we admit this contention, it by no means follows that the rate of taxation on the poorer members of the community should be higher than that on the richer ones. A simple method by which the regressivity of the poll tax, a fault inherent in that fiscal devise, may be corrected, is the inheritance or the income tax or some other tax equally capable of being made progressive. Under existing circumstances, the inheritance tax would seem to be the one best fitted to perform this service in North Carolina, and it is to be hoped that the tentative inheritance tax law of 1897 may be reenacted in a better form. As has been pointed out in discussing the income tax, a tax on business incomes would also help to counterbalance regressivity.

In the matter of corporation taxes, the future development is probably foreshadowed by the present situation. The taxation of certain corporations, such as railroad, telegraph and telephone companies, is peculiarly fitted for state purposes. Although the provision of the constitution requiring the "uniform taxation of real and personal property" prevents the special taxation of corporations by the state, yet the methods of assessment need not be the same as those for other forms of property. Railroads are assessed by a board of commissioners, banks are assessed on a valuation of capital stock, and it is not a far step in the future to the assessment of the property of all corporations by methods more adequate than those now employed.

When this is done, all corporation taxes can be paid directly into the state treasury. Thus the way will probably be paved in time for the exclusive taxation of corporations by the state.

[BIBLIOGRAPHICAL NOTE.—1. Laws of North Carolina, collected by James Iredell, Esq., Edenton, N. C., 1791. 2. Revisal of "Laws of North Carolina," by François Xavier Martin, 2 vols., Newbern, N. C., 1804. 3. Collection of the Statutes of the Parliament of England in Force in the State of North Carolina, by François Xavier Martin, Newbern, N. C., 1792. 4. Laws of North Carolina, revised by H. Potter, 2 vols., 1822. 5. Revised Statutes of the State of North Carolina, by James Iredell and William H. Battle, 2 vols., Raleigh, N. C., 1837. 6. Revised Code of North Carolina, by B. F. Moore and Asa Biggs, Boston, 1855. 7. Acts of the General Assembly of North Carolina. 8. Reports of the Auditor of North Carolina. 9. Reports of the Treasurer of North Carolina.]

III.

TAXATION IN KANSAS[1]

By ELBERT JAY BENTON

Economic Characteristics

The industrial development of Kansas bears a close relation to the physical characteristics of the state. There are few great river valleys and almost no navigable rivers, yet here as elsewhere the first lines of settlement followed the streams. Along the Missouri river on the west bank early arose such towns as Westport, Leavenworth, Atchison and Wathena, while along the Kansas river extended a line of settlements marked by Lawrence, Lecompton, Topeka and Pawnee. To a less extent the valleys of the Neosho and the Osage rivers with their tributaries directed the extension of civilization into the new territory. The building of railroads across the plains turned the lines of settlement from the rivers and led to the more speedy settlement of the entire region. This fact is clearly shown to-day in the line of towns that extends across the state along the railroads first built. A map of Kansas shaded to show the

[1] In addition to the acknowledgment made in the bibliographical note, the author wishes to express his obligation to those who have kindly assisted him in gathering material for this study. Special thanks are due to Mr. F. G. Adams, Secretary of the Kansas State Historical Society, and his assistants, for valuable aid in making accessible all matter in their charge; for the same reason, to Mr. James L. King, State Librarian, Topeka, Kansas, and to the authorities in charge of the Law Institute, Chicago, Illinois, for the use of their valuable collection of Kansas statutes; and to many others, the unofficial character of whose aid renders this public acknowledgment impossible, but whose assistance is none the less remembered.

density of population discloses several dark bands running the entire length of the state, with here and there cross bands. These in each case mark some railroad line. The Gulf, the Sante Fe, the Union Pacific, the Missouri Pacific, and the Rock Island systems show this grouping of settlements most clearly.

The economic interests of the people of Kansas until recently have been confined almost wholly to agriculture and grazing. The development of irrigation systems in the western part has only augmented this condition. The federal census of 1890 reported 61.42 per cent. of the male population of Kansas as engaged in agriculture. The remaining 38.58 per cent. was distributed among various pursuits; 4.14 per cent. in the professional class; 8.66 per cent. in domestic and personal service; 14.45 per cent. in trade and transportation; leaving 11.33 per cent. engaged in manufacturing and mechanical trades.[1]

The population of Kansas is mainly rural. In 1890 only about 12 per cent. of the people lived in cities of 8000 population or more. This small proportion of urban population becomes apparent when it is remembered that the average proportion for the entire United States is 29.20 per cent. Recently the urban population of Kansas has increased very rapidly, doubling in the last ten years. In 1870 the proportion of urban to rural population was 7 per cent.; in 1880 the proportion was 6 per cent.[2] The recent opening up of valuable zinc and coal deposits in the southeastern part of the state, and the rich gas belt now being developed have attracted manufacturing plants and point to great possibilities in industrial activity.

The character of its population has affected the economic history of the state to a marked degree. The territory was born amid the throes of civil strife and raised to statehood when revolution threatened to destroy the Union. For more than a decade it was the scene of a bitter war, during

[1] 11th Census, Vol. 50, part 4, p. 379.
[2] Statistical Atlas of the United States (1898), p. 15.

which people from all sections immigrated thither. In many cases these were men with lost fortunes to regain; young men without capital and often without family interests who had come there to carve out new careers. In every case they were the bolder, restless adventurers of the East.

The early years were years of hardship, political unrest, and slow progress, and even now Kansas has not entirely outgrown these necessary accompaniments of the beginnings of every commonwealth. It is still a new state. Its cities are small; its farms are large, and everywhere the comforts of the North and East are just being introduced. Farming is done on the extensive rather than the intensive plan, and thoroughness is often lacking. The people are prone to undertake new and bold business adventures. Enterprises are projected that never get any farther than the magnificent charter of promise that is filed with the secretary of state or the paper which is wasted in planning them. That conservatism for which the older sections of a country are noted is still in a great degree absent.

Undoubtedly the character of the people has been greatly influenced by climatic conditions. The extremes to which this region is subject, both in temperature and moisture, have developed popular disquiet, and the spirit of unrest has often lead to radical political changes. But this striving after new things has not proven harmful to fundamental institutions, and the peace and prosperity of the state have at no time been seriously endangered. The financial affairs of the state, on the contrary, stand practically as they were first instituted. The financial policy of Kansas was modeled in the beginning after eastern and northern states, and it has changed little in the years that have elapsed.

At times mortgages on the farms have been heavy, but these have been paid off rapidly during the past years. Eastern capital was necessary to develop the resources of the state, but now that these have been opened up, capital from the east is no longer indispensable, and the state is

undoubtedly entering upon a period of unusual financial prosperity. For a long time an unequal struggle was in progress in the western sections.[1] The farmers were struggling to make the soil bring forth the products of the middle north. This was not possible. Now that the new generation is becoming acclimated, as it were, the old story of absolute failures is not likely to be repeated. The farmers are learning to raise the right thing in the right place. Progress in irrigation, in subsoiling, and in working the soil so as to conserve most of the rainfall, are other elements in bringing about economic prosperity. The depression resulting from unnaturally rapid expansion of cities has been overcome. The "boom towns" have adjusted themselves to the resources of their environment and are now steadily growing. These conditions indicate increasing economic stability.

General Finances

The eleventh biennial report of the state treasurer for the fiscal year ending June 30, 1898, shows that the total receipts for the year were $2,760,322.15, while the total expenditures for the same period were $2,672,083.36. Of the total receipts, $1,413,695.08 was derived from the general property tax. The insurance department contributed in license fees $33,380.02 and the fees paid to the various other executive officers increased the amount by $62,434.27. Thus the total state income from sources which may be

[1] It is not uncommon to find entries like the following in the legislative annals of Kansas:

"April 16, 1861, Report of W. F. M. Arny to the Legislature that relief goods have passed through his hands weighing 9,197,300 lbs. Of this amount, 3,051,304 lbs. were for seed. The money was furnished by the legislatures of New York and Wisconsin and the New York City committee. In addition $22,481.93 has been expended" (Annals of Kansas, p. 261). Even to this day the treasurer keeps a seed-grain fund which is the payment of seed-grain warrants, *i. e.* loans to the western sections of the state to purchase seed grain. During the year 1897 there was paid to the state on this account $6401.19.

classed under the head of state taxation, was $1,509,509.37. The state penitentiary earnings for the year were $48,030.05. The state board of charities contributed from the various institutions under its control, $4,579.94.[1] The United States contributed to the aid of the Soldiers' Home $12,450, and to the agricultural college $23,000. From the payment of principal and interest upon state bonds held to the credit of the various school funds was received $844,283.74. During this same period the income derived from the public school lands was $220,929.13. The municipal interest account was $43,301.34. These statements show that about 54 per cent. of the state revenue was derived from taxation in one form or other, and that about 40 per cent. accrued from the bond and land account. As the greater part of the receipts from interest on bonds and lands go directly to the public schools, it is clear that the state must depend almost wholly upon taxation to maintain its charitable and penal institutions, to pay its legislative, judicial, and executive expenses, and to defray all other expenditures.

Of the total disbursements for the fiscal year 1898, $1,281,805.81 was charged to the general revenue account; that is, was expended for the support of state charitable and penal institutions and the executive and judicial departments. $39,689.55 was expended upon the state capitol building; $1,130,421.30, for educational purposes; $34,211.14, for the Soldiers' Home; $50,000 of the state bonds were paid; $40,651.90 was paid as interest upon the state debt; $33,913.04, on state grain inspectors' warrants; and $30,142.88, for the municipal interest account. As there was no session of the legislature during 1898, the general expenditures were considerably less than for the year preceding. On June 30, 1898, there was a balance in the treasury amounting to $412,151.63.

[1] This merely means that it paid into the treasury all receipts accruing during the year. In this case, as in that of the fees paid to state officers, all moneys were paid into the general revenue fund and from that allotted to the various purposes of state expenditure by legislative appropriation.

The public debt of Kansas is insignificant when compared with the debts of many of the older states. The constitution provides that the state may contract public debts for the purpose of defraying extraordinary expenses and making public improvements. But such debt must never exceed in the aggregate, one million dollars, unless the proposed measure for creating the debt shall have first been submitted to a direct vote of the electors of the state at some general election and have been ratified by a majority of the voters. A law creating a debt must at the same time provide for levying an annual tax sufficient to pay the annual interest of the debt and the principal thereof when due. The state is also prohibited from ever becoming a party to carrying on any works of internal improvements.[1]

The present state funded debt is $632,000. Of this the permanent school fund owns $589,000, and the university permanent fund $9000, leaving $25,000 in the hands of individuals and corporations. The $25,000 held by individuals and corporations will fall due January 1, 1899, and the last legislature provided that the bonds be refunded at four per cent., and authorized the school fund commissioners to purchase them should the revenue fund be insufficient money to pay them off.[2]

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[1] Acts of the legislature authorizing counties to subscribe for stock in railroad companies, and to issue bonds to pay for them have, however, been declared constitutional and valid (Leavenworth Co. *vs.* Miller, 7 Kansas, 479; Morris *vs.* Morris Co., 7 Kansas, 576). In this way a great majority of the railroads of Kansas have been assisted in construction. Thus indirectly the legislature of the state has defeated the ends of the constitutional limitation. For it was clearly designed that the people of the state should not be burdened with taxation to pay for enterprises which could be conducted by private persons. In consequence the local debts and not the state debts of Kansas are burdensome.

[2] See Report of State Treasurer, Sept. 1, 1898. In response to an inquiry, the State Treasurer, under date of September 25, 1899, states "that the $25,000 that you particularly inquire about being an indebtedness held by individuals or corporations has been paid and that the state owes no money at this time, except what it owes to the Permanent School Fund. The state owes the Permanent School Fund at this time $484,000."

The state debt of Kansas is thus in excellent condition. The rate of interest is reasonable. The amount and distribution of the dates of maturity render the speedy payment of the total debt possible if it is desired, while within a very short time the whole will be in the hands of the school fund commissioners. Thus whatever interest is paid returns directly to the people in the support of the public school system. With the state debt so well disposed of, the state capitol practically finished, the state institutions well established and supplied with buildings, and the remarkable growth of state resources, state taxation in Kansas should cease to be onerous.

The real burden of indebtedness in Kansas is in the form of municipal debts and mortgages on real estate. Municipal indebtedness in 1898 amounted to $30,301,202.[1] Indeed, so serious has this craze for local improvements become that every governor's message to the legislature from 1885 to 1891 contains strong words of condemnation and warning on account of the increase.[2] No statistics of real estate mortgages later than the federal census of 1890 are obtainable. At that time the aggregate mortgages on Kansas real estate was $243,146,826. Only five states, New York, Pennsylvania, Illinois, Massachusetts and Ohio exceeded this amount. 60.37 per cent. of the taxed area was covered by mortgages. No state exceeded this, Nebraska and South Dakota coming nearest with 54.73 and 51.76 per cent., respectively. The mortgage debt was 26.83 per cent. of the true value of the real estate.

A summary of state expenditures and receipts for the year 1897-98 is here appended:

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[1] See Report of Auditor, 1898, p. 186.

[2] The Governor of the state addressing the legislature, Jan. 16, 1889, when the aggregate county, township, city and school indebtedness was $31,107,646.03, with an average interest of 6 per cent., says: "This means an annual tax of $1,866,458, or a levy equal to five and one-fourth mills on the dollar on the present assessed value of all taxed property in the state. This interest charge alone exceeds the state levy for the year 1888 by $418,140.63." Documents of House, 1887-8, p. 20.

EXPENDITURES.

General Revenue Warrants	$1,281,805.81
State-house Fund Warrants	39,689.55
Current University Fund Warrants	11,766.06
Permanent School Fund Warrants	546,522.96
Annual School Fund Warrants	438,672.31
University Permanent Fund Warrants	20,150.00
University Interest Fund Warrants	5,684.92
Normal School Permanent Fund Warrants	25,118.00
Normal School Interest Fund Warrants	15,250.00
Agricultural College Permanent Fund Warrants	41,640.55
U. S. Endowment Warrants	23,000.00
Agricultural College Interest Warrants	25,616.50
U. S. Aid State Soldiers' Home	34,211.14
State Bonds paid	50,000.00
State Coupons paid	40,651.90

RECEIPTS.

Direct Tax	$1,413,695.08
Insurance Department	29,517.52
Seed-grain Warrants	7,793.30
Secretary of State, Fees	2,188.75
Auditor of State, Fees	942.45
Bank Commissioner, Fees	6,742.40
Penitentiary Earnings	48,030.05
Oil Inspector, Fees	9,384.46
State Board of Charities	4,579.94
Grain Inspector	41,977.85
U. S. Aid, State Soldiers' Home	12,450.00
U. S. Aid, Agricultural College	23,000.00
Payment of Bonds, Permanent School Fund	412,815.19
Payment on Lands, Permanent School Fund	85,799.31
Interest on Permanent School Bonds	315,426.00
Interest on Land Sales	121,711.68
Insurance Department	3,862.50
Payment of Bonds, University Bond	16,330.33
Payment on School Land, University	2,030.26
Interest on Bonds, University	7,381.25
Payment of Bonds, Normal School	15,811.20
Payment on Lands, Normal School	2,764.85
Interest on Bonds, Normal School	7,265.95
Interest on Land, Normal School	7,774.57
Payment of Bonds, Agricultural College	41,994.25
Interest on Bonds, Agricultural College	27,259.49

Development of Taxation

The settlement of Kansas was a part of that westward movement which followed the discovery of gold in California. The route of travel to the gold fields of the Pacific lay across this region, then a large Indian reservation. During the year 1849, 30,000 people are estimated to have crossed this district, and in 1850 the number increased to 60,000.[1] This was the beginning of an immense prairie commerce. Up the valleys of the Platte and Arkansas rivers passed an unbroken stream of immigrants and freight wagons. The result was to acquaint the North and South with this long unknown section just at a time when the South was desperately in need of more territory if it were to retain its balance of power in the Senate. The territory included in Kansas had been acquired by the acquisition of Louisiana and by purchase from Texas. After the admission of the state of Missouri that part of the territory of Missouri now in the state of Kansas had no distinct government until 1854,[2] while the part of the present state south of the Arkansas river and west of 100° west longitude had no organized government of its own after the admission of Texas in 1845. The act of Congress finally passed in 1854 provided for the organization of that portion south of the 40° parallel into Kansas Territory.[3] This precipitated the contest between the North and the South for the privilege of giving to the new territory the institutions peculiar to each section.

No attempt can here be made to follow this contest, nor the guerrilla warfare, waged upwards of ten years, which accompanied it. It is sufficient for our purpose to note that out of this struggle Kansas emerged into statehood with all her institutions practically organized. Three unsuccessful attempts were made before a constitution was finally adopted by the people and accepted by the Federal

[1] J. N. Holloway, History of Kansas (1868), p. 93.
[2] Poore's Charters and Constitutions, p. 1164.
[3] *Ibid.*, p. 569.

Government. Indeed the sanction of Congress could not then have been obtained had not the southern members withdrawn. In these instruments can be traced certain definite evidences of the contest of the South and North for control in methods of taxation and finance.

The Kansas and Nebraska Bill of 1854 limited the legislative power of the territory. "No tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the land or other property of residents."[1] In addition to this the usual provision was made for the payment of the salaries of territorial officials out of the U. S. Treasury, and the promise was inserted that the customary appropriations for the erection of suitable buildings at the seat of government and for the purchase of a library would follow.[2] The United States Congress in carrying out this promise seems to have had in view a definite policy with respect to territories, and appropriations were made corresponding with those for the territory of Minnesota. Notwithstanding the good intention of Congress the money was expended injudiciously by the territory and even the work on a state capital at Pawnee was soon abandoned.[3]

The first census of Kansas showed a total taxable population of not far from 3000.[4] The legislature met for the first time July 2, 1855, at Pawnee, and to this assembly is to be credited the beginning of fiscal legislation. The bulk of the general laws enacted were exact transcripts of the Missouri code. Provision was made for the exemption from taxation of all widows and minor orphans, possessing

[1] Poore's Charters and Constitutions, p. 576.

[2] *Ibid.*, p. 579.

[3] A contemporary record for Nov. 7, 1855, states "Owen C. Stewart is discharged as Superintendent of the Capitol. The $50,000 appropriated by Congress had been expended but the walls of the building had been abandoned only a few feet above the foundation." (Annals of Kansas, p. 111.)

[4] The census of 1855, made by order of the Governor, gave a total population of 8601, with 2905 voters. Census completed Feb. 28, 1855. (Kansas Report in Doc. of H. of Rep. 1856.)

property worth not more than $1000.[1] The payment of a tax was made a qualification for voting, the act stipulating that "Every free white male citizen of the U. S. and every free Indian who is made a citizen by treaty or otherwise, and over the age of twenty-one years, and who shall be an inhabitant of the Territory, and of the county and district in which he offers to vote, and shall have paid a Territorial tax, shall be a qualified elector for all elective offices."[2] The spirit of this law was practically evaded. Any man of proper age who was in the territory on the day of the election, and who had paid one dollar as a tax to the sheriff, who was required to be at the polls to receive it, could vote as an inhabitant,[3] although he had breakfasted in Missouri and intended to return there for supper.[4] Manifestly as a source of revenue this measure was of no importance, and it is only in its political significance that it is worthy of record. At the election of October 1, 1855, for delegate to Congress where citizens of Missouri voted in great numbers, there is evidence that many of them failed to pay the dollar tax required.[5] Everywhere the tax was unsatisfactory in operation. In many cases it was the cause of grievous complaint and later it even led to organized military preparations to prevent its collection altogether.[6]

The revenue law of 1855 provided for a levy on real and personal property to the amount of ⅙ per cent. of the assessed value, and for a poll tax of 50 cents upon all persons between the ages of 21 and 55 years.[7] At this time the assessment was made by a county assessor appointed by

[1] Statutes of Kansas Territory, 1855, p. 658.

[2] Act passed Aug. 29, 1855; repealed Feb. 20, 1857. Code of 1856, p. 322.

[3] Code of 1856, p. 33.

[4] Kansas Affairs, 1856, Documents House of Rep. No. 200, p. 44.

[5] At Baptiste Paola, Lykins county, some Indians voted, the whites paying the dollar tax for them. *Ibid.*, p. 45.

[6] See letter of Gov. Walker to Sec. Cass, Aug. 19, 1857; found in Kansas Historical Collections, Vol. V, p. 376.

[7] Laws of 1855, Sec. I, Art. II, Ch. 137, p. 658.

the county court for a term of one year.[1] The sheriff was *ex officio* collector within each county of all revenue, and paid over the proceeds to the county treasurer.[2] Then as now the county court constituted a board of equalization to hear and determine finally all appeals and to correct and adjust the tax book accordingly.[3] But at this time conditions did not require the raising of much revenue, nor could any considerable amount have been raised if it had been required.[4]

While the first two sessions of the territorial legislature were busily trying to organize a territorial government modeled after the southern states and particularly after the near neighbor Missouri, the anti-slavery party was attempting to frame a constitution at Topeka and to secure its ratification. This constitution which failed to be accepted by the United States was a strong anti-slavery document, and declared against the policy of limiting electors to taxpayers.[5] An examination of its fiscal provisions shows that the political leaders in the West had profited by the experience of the older states, for the state is forbidden to give or loan its credit to any individual, association or corporation, or to contract a debt for extraordinary expenditures exceeding one hundred thousand dollars unless au-

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[1] Statutes of Kansas Territory, 1855, p. 659.

[2] Statutes of 1855, pp. 665, 670.

[3] Statutes of Kansas Territory, 1855, p. 664.

[4] "Levying public taxes at this time at least to any considerable extent, before our people have secured title to their lands, or realized their products, would be undesirable, unless absolutely necessary." Extract from Gov. Reader's Message to Ter. Leg., July 31, 1855; in Pub. Kan. St. Hist. Soc., Vol. V, p. 195.

"Desolation and ruin reigned on every hand; homes and firesides were deserted; the smoke of burning dwellings darkened the atmosphere; women and children, drawn from their habitations, wandered over the prairies and among the woodlands, or sought refuge and protection even among the Indian tribes." (Gov. Geary in Senate Doc. 1st Sess. Thirty-fifth Cong., No. 17, p. 200.)

[5] "The payment of a tax shall not be a qualification for exercising the right of suffrage." Sec. 19, Const. 1855; Poore's Charters and Constitutions, p. 580.

thorized by a direct vote of the people.[1] The exemption list included personal property to an amount not exceeding one hundred dollars for each head of a family. In other particulars the list did not vary greatly from the present exemption law. The instrument also affords striking evidence of the reaction against the loose commonwealth banking laws of the preceding period. One clause went so far as to declare that "every bank or banking company shall be required to cease all banking operations within twenty years from the time of its organization and promptly thereafter to close its business."[2] An issue of script to the amount of $15,265.90 to provide for general expenses was also authorized by this first free state legislature ("Topeka Legislature"). This legislature was never recognized by the Federal government; its laws were inoperative and the script was never paid.[3]

In 1857 another attempt was made to form a constitution acceptable to Congress, and this time the pro-slavery party was responsible.[4] By this constitution the state debt that could be contracted for extraordinary expenditures was limited to $50,000. The legislature was vested with power to levy an income tax, and to tax all persons pursuing any occupation, trade, or profession. This was undoubtedly due to the influence of the settlers from the southern seaboard and indicates how during these years not only slavery but the whole fiscal as well as political system of Kansas was in the balance. In another clause[5] provision was made that, "The legislature shall levy a tax on all railroad incomes, proceeding from gifts of public lands, at the rate

[1] Poore's Charters and Constitutions, p. 589.

[2] See Art. XVII, Sec. 7, Constitution of 1855; in Poore's Charters and Constitutions, p. 589.

[3] See Annals of Kansas, p. 70.

[4] The attitude of the new constitution upon the slavery question was expressed in the clause in the Bill of Rights reading, "Free negroes shall not be permitted to live in this state under any circumstances." (Poore's Charters and Constitutions, p. 610; Const. 1857, Bill of Rights, cl. 23.)

[5] Art. X, Sec. 6, Poore's Charters and Constitutions, p. 607.

of ten cents on the one hundred dollars." The state government was pledged to carry on improvements in relation to road, canals, and navigable rivers at public expense to whatever practicable extent the development of the country might demand.[1] For the assessment of real property the legislature was required to classify the lands of the state into three distinct classes, to be styled respectively, class one, two, three; and land in each of these classes was to have a fixed monetary value upon which there was to be assessed an ad valorem tax.[2] A capitation tax upon all able-bodied men from 21 to 60 years was imposed,[3] and a single state bank of discount and issue with not more than two branches was to be incorporated if the majority of the electors were favorable.[4]

The third attempt to form a constitution was made in 1858. All the influence of the older southern states so conspicuous in the previous attempt of the pro-slavery party was entirely absent from this instrument. The limit of the state debt for extraordinary purposes was therein fixed at $100,000,[5] and the state was forbidden to contract any debt for purposes of internal improvements.[6] The instrument even went so far as to declare, "the levying of taxes by the poll is grievous and oppressive, therefore the general assembly shall never levy poll tax for county or state purposes," and this in opposition to the pro-slavery party poll tax system as then levied.[7]

In the next year, 1859, was framed the constitution finally accepted by Congress and ratified by the people. This was the anti-slavery constitution of Wyandotte. Examination of its financial provisions will be deferred to the con-

[1] Constitution of 1857, Art. X, Sec. 6, Poore's Charters and Constitutions, p. 607.
[2] Constitution of 1857, Art. X, Sec. 4; *ibid.*, p. 607.
[3] Constitution of 1857, Sec. 5, Art. X; *ibid.*, p. 607.
[4] Constitution of 1857, Sec. 5, Art. X; *ibid.*, p. 607.
[5] Constitution of 1858, Art. X, Sec. 3; *ibid.*, p. 623.
[6] Constitution of 1858, Art. XI, Sec. 5; *ibid.*, p. 623.
[7] Constitution of 1858, Sec. I, Art. XI; *ibid.*, p. 623.

sideration of existing tax methods in Kansas. It should be noted at this point, however, that northern and western influences prevailed here as they have since done, and so far as its fiscal system is concerned Kansas was made a northern and not a southern state.[1]

The early reliance upon the general property tax was continued during the territorial period. In 1858 the legislature imposed a general property levy of 3 mills on the dollar and a capitation tax of $1.00.[2] This law exempted personal property to the amount of $200,[3] and permitted the deduction of all debts from taxable property. Two years later the capitation tax was reduced to 50 cents upon every white male over 21 years of age.[4] In 1858 the old law making the sheriff the collector of taxes was repealed and the town and township treasurers became the collectors of all taxes, local and territorial. At the same session of the legislature the county assessor appointed by the county court was replaced by township assessors elected for a term of one year.[5] This system of assessment only continued two years when a county assessor elected annually at the November election was created. Deputy assessors, authorized by the county commissioners, were appointed by the county assessors.[6] An additional tax exemption to the amount of $500 was accorded by the same revenue laws to the property of all widows.[7]

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[1] The constitution of Kansas was modeled after that of Ohio. This fact is undoubtedly explained by the composition of the Wyandotte convention. The distribution of the members was as follows: Pennsylvania 6, Massachusetts 2, Ohio 14, Kentucky 5, Ireland 1, Maine 2, New York 4, Germany 1, Indiana 6, Virginia 1, New Hampshire 3, Vermont 4, England 1 and Scotland 1. Thus Ohio had by far the largest representation, in addition to the fact that the chairman of the committee on finance and taxation was an Ohio lawyer.

"The Constitution of Ohio is adopted as a model or basis of action, receiving 25 votes to 23 for Indiana and one for Kentucky." Proceedings of Const. Convention, in Annals of Kansas (1859).

[2] Laws of the Territory of Kansas, 1858, p. 344.

[3] *Ibid.*, p. 350. [5] *Ibid.*, 1858, p. 388. [7] *Ibid.*, p. 114.

[4] *Ibid.*, 1860, p. 176. [6] *Ibid.*, 1860, p. 65.

As early as 1858 the attempt was made to equalize the territorial taxes among the various counties by a regularly constituted board. This territorial board of equalization was composed of the secretary of state, the treasurer and the auditor. Then, as later, the board could equalize but not reduce the aggregate amount.[1] This board has remained unchanged in composition and duties throughout the years that have followed. The law was reenacted in 1860,[2] and in 1861 the body was made a state board.[3]

The trend of territorial legislation was thus towards the development of the general property tax as the main source of revenue. Kansas was entirely dependent upon agricultural and grazing interests and consequently could look no where else for public revenue. The capitation tax never formed an important source of income. A statement of the state taxes for the year 1861 will illustrate the relative amount of state income from the two taxes at the beginning of the statehood period:

Total valuation	$24,737,563.09
Capitation tax	4,115.75
General property tax	74,233.53
Total tax receipts	$78,328.28

It will be seen that 95 per cent. of the tax income was derived from the general property tax. At that time the levy was 4 mills on the dollar and the proceeds of the capitation tax formed the highest amount paid during any one year.

Prior to 1861 domestic feuds made possible the escape of large numbers of persons from taxation.[4] The capitation tax was especially odious to the opponents of the anti-slavery government, and on the other hand the free state

[1] *Ibid.*, 1858, p. 379. [2] *Ibid.*, 1860, p. 218.
[3] *Ibid.*, 1st Session, p. 156.
[4] "Yesterday resolutions were adopted by a public meeting at Lawrence to resist the assessment for a territorial tax." Letter of Gov. Walker to Secretary of State Cass, Lecompton, June 2, 1857, in Kansas State Historical Collections, Vol. V, 326.

men never paid a cent of the territorial tax levied by the bogus legislators of 1855. The tax then imposed remained charged against the various counties, with interest accumulating until the legislature of 1867 canceled it. During the entire period, the treasury suffered from the unstable condition of the state government. Several of the counties contended that the county board of supervisors had the power to remit the territorial taxes on account of illegal assessments, without supplying the deficit thus created. One county authorized the county treasurer to withhold two hundred dollars of the territorial taxes then in his hands to be refunded to such persons as had paid a double tax. Another county relinquished the territorial tax on account of irregular assessments. Neither of these counties took steps to supply the deficits thus occasioned.[1]

The inauguration of the state government may thus be said to have taken place at a time most inauspicious for the establishment of public credit. The people of the territory had been impoverished by the misfortunes of a bitter

[1] This refusal of counties to furnish their quota of the tax continued to be a source of great financial embarrassment to the officials until well down into the state period. A statement of territorial finances from 1856 to 1861 is here presented:

To amount revenue paid into Treasury in	1856	$ 1,811.38
" " " " " " "	1857	3,383.09
" " " " " " "	1858	681.12
" " " " " " "	1859	26,544.06
" " " " " " "	1860	3,197.53
By amount warrants,	1856	$ 5,211.48
" " "	1857	11,604.47
" " "	1858	4,502.93
" " "	1859	64,400.26
" " "	1860	41,234.14
Outstanding warrants,	1861	89,344.80

During 1861 this last aggregate was diminished to $87,390.84 (Auditor's Report of 1861). The large increase in the expenditure for 1859 is accounted for by the fact that the account of the legislature for 1858, the Leavenworth Constitutional Convention in 1859, the cost of the Board of Commissioners to investigate frauds in 1857 and 1858, and sundry other accounts of 1858 were all audited during the year 1859.

civil strife, by financial panic, and by threatened famine. In addition, the country was in the throes of a great national revolution and public confidence was shaken.[1]

The laws relating to assessment and taxation were revised under the state government in 1861, in 1866, in 1876, and in 1897. As the expenditures of the state increased and its resources became more varied, attempts were made to render the yield of the general property tax adequate and at the same time to subject all lines of industry to an equitable burden of taxation. Taxation in Kansas during these years reflects conditions which have prevailed and still do prevail in the average western state. Lack of variety in sources of revenue throws the burden on those portions of the state most affected by varying economic conditions, and upon the score of instability, least able to bear it. The history of taxation in Kansas is, then, practically the history of the working of the general property tax in a western state. In so far as a study in methods of commonwealth taxation is concerned, the data of 1898 possess as much value as those of 1862. In the gradual changes in the methods of assessing the general property tax and in recent attempts to adjust itself to new economic conditions, Kansas seems to be typical of the ordinary western state. There has been a gradual unconscious evolution.

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[1] These facts are graphically described by a contemporary authority (Auditor's Report, January, 1862, Topeka, 1862):

"Inheriting the effects of a territorial government, practically destitute of both a treasury and a financial system, and which had signalized its dissolution by stamping upon its credit the ineffaceable stigma of repudiation, the new state was not only without funds for the payment of current expenses, but found itself excluded from those money markets which are the ordinary resources of needy governments. Notwithstanding the rebellion, which cause draws so largely from the ranks of our producing classes, necessitating a considerable decrease in the area of cultivated lands, and effectually putting an end to improvements generally; the drought of 1860—from the effects of which the state yet suffers in reputation to some extent—she has been steadily increasing in wealth, and her revenue has had an average yearly increase of 30 per cent."

The capitation tax was abandoned in 1863. The last levy of this occurred in the revenue act of 1862 where a tax of 50 cents on all male persons between 21 and 50 years of age was imposed. Throughout the early history of Kansas there was no fixed policy as to the method of selecting the assessing officer. It has been stated that the assessment was made under the territorial government by a county assessor appointed by the county tribunal, until 1858 when for two years a township assessor elected annually was tried, only to be superseded in 1860 by a county assessor elected annually. This continued until the legislature of 1869 abolished the office of county assesssor and made the township trustee also the township assessor.[1] Cities of the first and second class elected annually a city assessor. In 1868 the township trustee had been required to list and value the personal property of his township but the real estate was still listed by the county assessor.[2] This act also provided for the annual election of a city assessor to list and value personalty. In the laws of 1876 the assessor in cities of the first and second class was made an appointive officer of the mayor and council with a term of one year.[3] The special session of 1899 made the city assessor in cities of the second class an elective officer for a term of one year.[4] Thus it appears that the short term has characterized this office throughout the entire period.

It can hardly be said that the institution of a county assessor has had a fair trial in Kansas. As an appointive office, the term was too short and at the time when this method was used there was a total lack of system in all fiscal matters. Little less than anarchy prevailed throughout the entire time. An elective county assessor was only tried two years and a term of one year was entirely unsatisfactory.

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[1] Laws of Kansas, 1869, p. 111.
[2] General Statutes, 1868, p. 1036.
[3] Session Laws, 1876, Art. VIII.
[4] Laws of Special Session, 1898-9, p. 23.

Early in the period of statehood the rapid development of the railroads of the state with their enormous landed wealth led to dissatisfaction with the method of assessing such property by local authorities. In 1869 was taken the first step towards independent assessment by the appointment of a board of appraisers and assessors for each railroad.[1] Where a railroad was located entirely within the limits of one county the county commissioners constituted the board. Where two or more counties were concerned, the board was made up of the county clerks of the counties along the line. The boards apportioned the assessed value of the road among the several counties in proportion to the mileage located in each. Appeal from the assessments of the board might be taken to the supreme court of the state. Finally, the state board of equalization had the same power over the assessments of these local boards as over ordinary property assessments, and where the supreme court ordered changes it became the duty of the state board to reapportion the railroad assessments among the counties. Two years later a new railroad assessment law was passed. A state board of railroad assessors was therein created, consisting of one member from each judicial district elected by the people for a term of two years. As there were then twelve districts the number of members of this board was twelve.[2] But as early as 1874 this law was repealed and railroad property was assessed again by the township assessors;[3] the assessment was, however, equalized by the state board of equalization. The present state board of railroad assessors, composed of the lieutenant governor, secretary of state, treasurer and attorney general, was created in 1876.[4] The same tendency has recently appeared in the assessment of telegraph and telephone companies. Until 1897 they were assessed by the same author-

[1] Laws of Kansas, 1869, p. 244.
[2] *Ibid.*, 1871, p. 329.
[3] *Ibid.*, 1874, p. 149.
[4] Session Laws of 1876, p. 53.

ities as other property, but at that time a special board of assessors was created for this purpose.

The attempt was made in 1872 to permit the taxpayer listing his personal property to deduct his debts from his total credits.[1] This law only remained in force four years. It was probably a conscientious attempt to tax only what was actually owned. But quite a different spirit led in the next year (1873), to the exemption of mortgages and other securities from taxation. The title of the acts asserts its purpose to be: "to promote the improvement of real estate by exempting mortgages and other securities from taxation."[2] The repeal of the act of the legislature at its next session is probably sufficient commentary on the attitude of the people of Kansas upon the exemption of mortgages.

The history of the direct state tax for public schools is brief. In 1861 the original act permitting the legislature to levy an annual tax of one mill upon the dollar for the benefit of the common schools was passed.[3] This tax was collected in the same manner as other state taxes, and continued to be levied until the repeal of the law in 1879.[4]

The first step in the taxation of insurance companies occurred as early as 1863, and was indeed the beginning of the slow process of differentiation in state taxation. The act of 1863,[5] however, was not an attempt to derive revenue but rather to protect the citizens of Kansas against wild-cat insurance companies and to regulate those companies organized under Kansas laws. This act permitted the secretary of state to collect the following fees: $5.00 for filing the initial record and the same amount for the annual statement, and $2.00 for every certificate of agency. The county clerk was permitted to collect 50 cents for every paper filed. This only affected those companies organized under

[1] Laws of Kansas, 1872, p. 104.
[2] *Ibid.*, 1873, "Act exempting mortgages."
[3] *Ibid.*, 1861, p. 27.
[4] *Ibid.*, 1879, p. 270. It yielded in 1878 to the common school fund $144,930.27. (Documents of Kansas, 1879, p. 126.)
[5] Laws of Kansas, 1863, p. 59.

state laws. Since then changes have been made, as the imposition of a tax for the benefit of fire-departments, additional license fees, reciprocal fees, and a rate upon premiums of foreign companies. But it was not until the special session of 1898-9[1] that a definite state charge beyond that required for the support of the insurance department became the deliberate policy of the legislature. The examination of this law is deferred to the study of the corporation tax as it exists in Kansas.

From this brief historical survey of tax legislation in Kansas it will appear that while some progress towards more varied sources of revenue has been made, yet the movement has been slow. There has been a gradual differentiation in assessment. Railroad companies first secured the privileges of separate assessment and recently telegraph and telephone companies have followed. The direct state tax upon insurance companies will probably be the opening wedge for a wider corporation tax. In the practical working of the general property tax it is hard to see any definite advance. In the method of choosing assessors the only conclusion possible is that the earlier methods have not been improved. One cannot help but believe that a state board of equalization composed of representatives chosen from judicial districts was better than a board made up of state officials with their hands already full of routine executive business. However, the present number of judicial districts (35) would make such a board unwieldy. If there is to be a state board, it would probably be well to substitute Congressional districts as the basis of representation. After all, considerable experience has been gained by the state, and a careful study of past measures and actual experiences should precede any attempt to formulate further improvement in tax methods.

There is probably no factor in the development of Kansas more interesting from a fiscal standpoint than the dispo-

[1] Laws of Special Session, 1899, p. 72.

sition of public lands and the aid which has been given to railroads. By acts of Congress the state received for public purposes 1,459,840 acres of land. Of this amount it is estimated 800,292 acres came from the sixteenth and thirty-sixth sections given to the common schools of the state; 46,080 acres from the seventy-two sections given to the state University; 6400 acres from the ten sections devoted to public buildings; 46,080 acres from the six sections adjacent to twelve salt springs. The act of Congress of September 4, 1841, gave to the state 500,000 acres and the act of February 26, 1859, 60,988 acres.[1] In addition to these grants the state was to receive five per cent. of the proceeds accruing from the sale of public lands. An act of the state legislature in 1868 directed that this amount be paid into the state treasury to the credit of the school fund.[2] I have been unable to ascertain the total amount of this fund, but the claim of the state, granted by Congress, estimated it for the years from 1851 to 1877 as $190,566.08. In striking contrast with what has actually been done in the way of state aid to the common schools by public land grants is the intent of the constitution drawn in 1857. Here it was proposed to set aside for the support of the common schools sections 8, 16, 24 and 36. In addition to this there was to be assigned for the same purpose three-fifths of the five per cent. of the proceeds from the sale of public lands.

Aid to railroads in Kansas has been given by the federal and state government in the shape of land grants and by the various counties, townships and cities in the form of bond subscriptions or outright bonuses. About 80 per cent. of all county, township and city bonds have been issued in aid of railroad construction.[3] To such an extent has this practice been carried that the legislature of 1887 enacted a law reducing the limit of such aid from four thousand to two thousand dollars per mile. But the craze was at its

[1] State Documents, Jan. 14, 1862; Annals of Kansas, p. 266.
[2] Statutes of Kansas, 1868, p. 972.
[3] Governor's Message, 1891, in Documents of Kansas, 1889-90, p. 9.

height and this legislation does not seem to have sufficed. The governor in his message to the legislature in 1889 urged stringent limitations and restrictions upon this form of aid, indeed going so far as to ask that all authority to issue bonds be revoked, except in the case of counties having no railway lines within their limits.[1] While this local aid to railroads undoubtedly hastened the growth of the state, it also resulted in feverish development, over-speculation and final collapse in many places. Many railroads were built where they were not demanded, and it is the common conviction of residents of Kansas that all the roads that were actually needed would have been built without this aid.[2]

To a considerably less extent the state has been a party to the policy of public aid to railroad systems. The question of the relation of the state to railroad construction was brought before the people during the territorial period. One governor recommended a liberal grant of state lands and a reservation of seven per cent. of their gross annual

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[1] Governor's Message, 1889, p. 10, Documents of Kansas, 1887-88.

[2] The federal government was in the midst of its railroad aid policy when Kansas was admitted to the union, and a statement of the federal grants to Kansas railroads is here appended:

Date of Law.	Name of Road.	Quantity granted in acres.
Mch. 3, 1863.	Leavenworth, Lawrence & Galveston.....	800,000
July 1, 1864.	Atchison, Topeka & Santa Fe.....	3,000,000
July 1, 1864.	Union Pacific—So. Branch	500,000
July 23, 1866.	St. Joseph & Denver City.....	1,700,000
July 25, 1866.	Kansas & Neosho Valley, now known as Missouri River, Ft. Scott & Gulf R. R.	2,350,000
July 26, 1866.	South. Branch Union Pacific, now Missouri, Kansas & Texas R. R.....	1,520,000
July 1, 1862, July 2, 1864.	Central Branch—Union Pacific.....	245,166
July 1, 1862, July 2, 1864.	Kansas Pacific	6,000,000

See Annals of Kansas, p. 628.

receipts. This was suggested by the Illinois method.[1] Another advocated a great state railroad to run to the Gulf.[2] But as a matter of fact the state government has never given more than the 500,000 acres granted by the federal government in the act of 1841.[3] At one time the state senate had under consideration a bill which proposed a five-million state railroad debt,[4] but fortunately this measure was defeated.

State and Local Taxation

State and local sources of revenue are so interwoven in Kansas that it is difficult to consider either apart from the other, while the results of such a consideration would in any event seem incomplete. There is not that variety found in many of the older states, making possible the use of distinct taxes for state and for local purposes. For the most part the state tax is collected through the same channels and has the same origin as the local tax. The proportion required for state purposes is comparatively light,[5]

[1] "Now if Kansas, like the state of Illinois, in granting hereafter these lands to companies to build these (rail) roads should preserve, at least 7 per cent. of their gross annual receipts, it is quite certain that, so soon as these roads are constructed, such will be the large payments into the treasury of our state, that there will be no necessity to impose in Kansas any state tax whatever, especially if the constitution should contain wise provision against the creation of state debts." Gov. Walker's Inaugural, May 27, 1857, in Kansas State Hist. Collections, Vol. V, p. 330.

[2] Gov. Geary's Message, January 12, 1857, in Annals of Kansas, p. 113.

[3] Annals of Kansas, p. 437.

[4] Annals of Kansas, p. 458; State Senate Documents, Feb. 23, 1867.

[5] Statement showing proportion of state and local taxes levied in 1897 (Report of Auditor, 1898, p. 226):

State tax	$1,358,417.64
County tax	3,784,088.12
City tax	1,948,564.53
Township tax	1,493,969.16
School district tax	4,008,411.33
Total levy	$12,593,540.78
The amount levied on railroad property in 1897	2,119,875.38

forming about one-ninth part of the whole amount of taxes collected.[1] In the following pages attention will be centered upon state taxation. Consideration will be given to other forms of state revenue and to local finances to the degree made necessary by clearness of statement and comprehensiveness of grasp.

General Property Tax

This tax, as has already been noted, has been almost the sole source of the state's compulsory revenue since the organization of Kansas in 1854. The method of assessment has been modified to suit varying conditions; but the changes have been in detail and not in principle. The auditor's report for the first year of statehood, 1861, estimated the yield of the general property tax to be about 94 per cent. of the total proceeds from taxation. A comparison of the proportion in the years that have elapsed since 1861, shows that this ratio has changed little. Thus during the fiscal year of 1898 $1,413,695.08 was collected from the general property tax, while the total income from taxation was $1,505,646.87. That is, the general property tax yielded 93 per cent. of the whole revenue from taxation.

Levy. The amount and the rate of the tax for state purposes are determined by the state legislature. At each regular session this body passes a revenue act for the two succeeding years. By this act such a rate, expressed in number of mills on the dollar, as will yield the amount appropriated for the various state needs, is fixed as the levy for each of the two following years. As the act is passed before the assessment for the current year is completed, the rate is based on the assessment of the preceding year.[2] The

[1] Cf. estimate of Gov. Humphrey in Message of January 16, 1889 (Documents of Kansas, 1887-8, p. 21).

[2] It would be better for the legislature to merely fix the aggregate amount to be raised by taxation for state purposes, leaving the rate to be determined by the state board of equalization. The rate could then be based upon the assessment of the current year. Cf. Governor's Message, January 9, 1895, p. 7, in Documents of Kansas, 1893-94; also Treasurer's Report of same date.

state levy has remained about the same for a number of years, failing indeed to vary with the change in property valuation, or with the increase in state expenditures.

Fund System. The tax rate for each year is made up of several levies. The fund system is in force; but the number of funds has been gradually reduced until now there are only two in receipt of income from taxation. These are the general revenue fund and the interest fund. Prior to 1897 there was a special levy at each biennial session and a corresponding fund known as the "Current University Fund" to provide for the expenses of the State University. Now appropriations for the University are taken out of the general revenue fund. There is still a statehouse fund, and also a sinking fund. The last levy, however, for the statehouse fund was made in 1896 and the only receipts now accruing thereto are taxes in arrears. A separate levy for the sinking fund has not been made for several years, and only unpaid taxes upon past levies now accrue thereto.[1]

The tax levies for the three fiscal years ending June 30, 1900, have been as follows:[2]

1895 and 1896: general revenue fund, $3\frac{5}{10}$ mills; inter-

[1] The legislature of 1899 made a levy of ¼ mill on the dollar for the completion of the state house. This is for the years 1899 and 1900, and the fund is only temporary. See Session Laws, 1899, p. 433.

[2] Aside from the regular funds for which taxes are levied, there are several special funds still in existence kept open because of back taxes still accruing to them or because the legislature has not provided for their transfer. In some cases these funds have sources of income other than general property taxation, thus the insurance fund arises from a direct tax upon insurance companies. In the Treasurer's Report for June 30, 1898, p. 12, there are a total of twenty-six funds given as follows: General Revenue, State-house, Sinking, Interest, Current University, Militia, Veterinary, Permanent school, Annual school, University permanent, University interest, Normal permanent, Normal interest, Agricultural college permanent, Agricultural college interest, Insurance, Library, Stormont library permanent, Stormont library interest, Seed-grain account, United States aid to soldiers' home, United States endowment agricultural college, State grain inspector, fiscal agency interest account, Court Stenographer's fees, and Municipal interest.

est fund, $\frac{2}{10}$ mill; current University, $\frac{8}{10}$ mill; statehouse, $\frac{25}{100}$ mill; total state levy, $4\frac{25}{100}$ mills.

1897 and 1898: general revenue fund, 4 mills; interest fund, $\frac{1}{10}$ mill; total state levy, $4\frac{1}{10}$ mills.

1899 and 1900: general revenue fund, 5 mills; interest fund, ¼ mill; statehouse, ¼ mill; total, $5\frac{5}{10}$ mills.

The aggregate state levy for a term of years is shown in the following table:

1861.....	4 mills.	1881.....	5 mills.
1862.....	8 "	1882.....	4½ "
1863.....	7 "	1883.....	$4\frac{8}{10}$ "
1864.....	7 "	1884.....	4½ "
1865.....	7 "	1885.....	$4\frac{8}{10}$ "
1866.....	6 "	1886.....	$4\frac{1}{10}$ "
1867.....	6 "	1887.....	$4\frac{1}{10}$ "
1868.....	6½ "	1888.....	$4\frac{1}{10}$ "
1869.....	10 "	1889.....	$4\frac{3}{10}$ "
1870.....	8¾ "	1890.....	4¼ "
1871.....	6 "	1891.....	$3\frac{18}{10}$ "
1872.....	8½ "	1892.....	$3\frac{9}{10}$ "
1873.....	6 "	1893.....	$3\frac{8}{10}$ "
1874.....	6 "	1894.....	$3\frac{9}{10}$ "
1875.....	6 "	1895.....	4¼ "
1876.....	5½ "	1896.....	4¼ "
1877.....	5½ "	1897.....	$4\frac{1}{10}$ "
1878.....	5½ "	1898.....	$4\frac{1}{10}$ "
1879.....	5½ "	1899.....	5½ "
1880.....	5½ "	1900.....	5½ "

Taxable Property and Exemptions. Unless expressly exempted all property, real and personal, is subject to taxation. Real property includes not only land, but all buildings, fixtures, improvements, mines, quarries, mineral springs and wells. Personal property includes " every tangible thing which is the subject of ownership, not forming part or parcel of real property; also all tax-sale certificates, judgments, notes, bonds, and mortgages, and all evidences of debt secured by lien on real estate; also the capital stock, undivided profits, and all other assets of every company, incorporated or unincorporated and every share or interest in such stock, profit, or assets—also all property owned, leased, used, occupied or employed by any railway or tele-

graph company or corporation in this state situated on the right-of-way of any railway."[1]

The statutes exempt from taxation, all property used exclusively for state, county, municipal, literary, educational, scientific, religious, benevolent, and charitable purposes; personal property to the amount of two hundred dollars for each family; the wearing apparel of every person; all public libraries; and family libraries and school books of every person and family not exceeding in value in any one case, fifty dollars.[2]

Assessment. The township trustee is the assessor for his township. In cities of the first and third classes, an officer called the assessor is appointed annually by the mayor with the approval of the council. Cities of the second class elect at the annual municipal election a city assessor. Railroad property is assessed by a special state board, composed of the lieutenant governor, secretary of state, treasurer, auditor and the attorney general. For the assessment of property of telegraph and telephone companies, the same members comprise a board of appraisers and assessors.

It is the duty of every person of age and sound mind to list for the assessor, when called upon, all personal property of which he is the owner or user. The property of every company or corporation must be listed by some person designated by it. Such property is listed at the place where it is situated on the first day of March. The assessor may require the person listing personal property to verify his return by oath. Money and credits, not belonging to a business, are assessed at the place where the owner resides on the first of March. Where personal property is in the possession of the mortgagor on the first day of March, it is subject to assessment and taxation as the property of the mortgagor.[3]

At the time the return is made to the assessor, that officer

[1] General Statutes of Kansas, 1897, Vol. II, p. 874.
[2] General Statutes of Kansas, 1897, Vol. II, p. 875.
[3] See Field *vs.* Russel, 38 Kansas, 720.

may make such changes in the valuation of the property as seem to him just. In order better to secure equality in valuation, it is the duty of the assessors to meet in their respective county-seats on the first Monday in March, and there agree upon an equal basis for valuation. The statutes distinctly declare that such property shall be valued at the usual selling price in money at that time and place. The listing of personal property is done between the first day of March and the first day of May of each year. If the assessor discovers that any property subject to taxation has escaped, he is required to list and value it at twice its real value. However, there are very few assessors willing to make an extra effort to discover concealed property. In case of a refusal to deliver a statement of property, or to make oath to the truth of the statement, the assessor has power to take such steps as may be necessary to ascertain the valuation of all the taxable property. Whatever costs accrue from the employment of witnesses and constables or any other necessary procedure, are collected as a part of the taxes. Thus the costs in obtaining an assessment of the property become the penalty for refusal to list it. In addition it is the duty of the county clerk to add 50 per cent. to the valuation of all property which the owner has refused to list. I have never known of a case in Kansas where this power has been exercised. It is not refusal to list personal property, but concealment thereof that causes the evil.

Banking, loan and insurance companies are assessed on the market value of their capital stock, and stockholders are individually liable for taxes which may remain unpaid. The capital stock of banks is reached by assessing the shares of the individual stockholders, though the tax is collected through the corporation.[1] In general, it may be

[1] In several cases the courts have decided that a bank may pay the tax assessed upon its stockholders, and that an unpaid tax constitutes a lien on such shares. If, however, the tax levied upon the different stockholders be not paid by the bank, the property of the individual stockholders is liable for it. (See Revised Statutes, 1897, p. 387, note.)

said that all corporate shares are taxed in this manner. The assessed value, based on the capital stock, covers in practice everything, buildings, fixtures, money and credit papers.

The assessment of real property is made every second year. Here again the statutes provide that all real property shall be assessed at its true value. The assessor determines the value of all real estate and improvements by actual examination, and returns this, together with a full description of the property, to the county clerk. In actual practice, much reliance is put upon the land records in the register's office and upon previous assessment returns, and little effort is made to secure an entirely new valuation. Especially does this hold true in the cities, where revision is most needed.

The aggregate valuation of various classes of property for a term of years is shown in the following table:[1]

Year.	Land.	Personal Property.	Town lots.	Railroads.
1880	$87,510,028	$31,921,835	$20,922,021	$20,547,702
1881	91,207,146	34,437,195	22,493,321	22,671,911
1882	96,741,025	38,087,359	26,203,733	25,086,156
1883	99,899,559	48,030,492	27,739,202	27,290,214
1884	117,325,342	56,890,513	34,836,990	28,460,905
1885	122,871,239	56,502,333	38,420,301	30,367,820
1886	142,668,463	55,491,779	46,967,259	32,453,776
1887	152,200,666	60,796,746	56,646,873	41,222,605
1888	168,558,547	56,441,763	73,862,136	52,829,664
1889	173,801,010	53,187,371	76,330,671	57,494,849
1890	168,285,199	48,750,913	72,814,873	57,866,232
1891	170,160,308	47,401,227	74,303,916	50,865,825
1892	171,167,129	46,315,463	65,317,432	51,404,544
1893	173,077,920	47,227,073	65,756,543	61,731,035
1894	173,075,265	40,854,934	61,835,141	59,764,683
1895	173,296,813	35,031,849	62,076,828	59,503,654
1896	166,623,312	36,156,224	59,043,785	59,333,155
1897	167,766,793	38,242,266	59,207,508	59,445,669
1898	163,296,148	45,371,367	56,606,286	[2] 58,371,663

[1] Compiled from Reports of State Auditors, 1880-1898.

[2] This includes the valuation of telegraph and telephone companies. Before 1898 the valuation of such companies was included in the lists of real and personal property.

County Equalization. To secure an equal apportionment of the tax among the different portions of the county, the county commissioners are constituted a board to hear complaints and petitions from dissatisfied property owners. The board meets on the first Monday of June to equalize the returns of the assessors. At this time all parties feeling themselves aggrieved by the assessment can appear and have errors corrected. Individuals make free use of this opportunity to threaten and persuade the board to modify valuations. Often the privilege is a means of righting a wrong; often it is a means of shirking the payment of a just share of taxation.

State Equalization. The State Board of Equalization, consisting of the auditor, treasurer, and secretary of state, meets annually at Topeka on the second Wednesday in July. It examines the abstracts of property assessed for taxation in the various counties, and equalizes the county assessments by adding to or deducting from the assessed valuation. But in these changes the board cannot reduce the aggregate amount. It is essential that the total valuation be sufficient to yield, at the rate levied by the legislature, the amount needed for state purposes. The final assessments of the Board of Equalization are reported by the auditor to the county clerks, who determine the rate per cent. necessary to raise their respective portions of the state tax. The practice prevails among the counties of using the valuation fixed by the state board for state taxation only and of employing for local purposes the valuation fixed by the County Board.[1]

Assessment of Railroad Companies. The property of railroad corporations is assessed annually by a board consisting of the lieutenant governor, the secretary of state, the treasurer, the auditor and the attorney general. It is the duty of this board to appraise and assess at its actual value

[1] The Attorney General in his report for 1883-4 states that such is the practice. Documents of Kansas, Topeka, 1883-4, p. 76.

the track, road-bed, right-of-way, water and fuel stations, buildings, land, machinery, rolling stock, telegraph lines and instruments, material and supplies, moneys and credits, together with all other property used in the operation of the railroad. The board makes up its reports from the sworn statements of railroad officials and from personal examination and inspection. In case of failure on the part of the railroad to make the required statement to the state auditor, a penalty of not less than $1000 for each offense is incurred. In fixing the valuation of roads situated partly outside of the state, the valuation of that part within the state is determined by the ratio to the total valuation which the mileage in the state bears to the total mileage. It is customary to give the railroads an opportunity to appear before the board, and skilled representatives are sent to endeavor to secure a reduction of assessments.[1]

Through the auditor the board makes return of valuations to the county clerks in proportion to mileage in each county. The county clerks in turn place the assessments upon the county tax-rolls and thus the property becomes subject to the same rate of levy as other property for state, county, township or city and school district taxation.

Telegraph and Telephone Companies. In like manner the board of appraisers and assessors makes returns to the county clerks of the property of telegraph and telephone companies. The penalty for a refusal of these companies to file the proper statement with the auditor is $500, and an additional sum of $100 for each day's omission after

[1] It is a noteworthy commentary upon the relative merits of assessment by local authorities and by a state board constituted as the Kansas board, to find in the proceedings of the board frequent requests that prices of land or property be assessed by the state board rather than by the local assessors (Proceedings for May 27, 1897; April 26, 1898). It is not possible to present any conclusive opinion, but the little evidence at hand convinces me that the railroads very much prefer assessment by a state board; that the valuation is on an average less than when made by the local authorities, and that on the other hand a greater degree of uniformity is obtained by the present method.

March 20. In determining the assessment of telegraph and telephone companies' property, the auditor deducts from the total valuation the value of any real estate owned by the company, and also of all personal property located in the central or exchange offices. Such deducted property is assessed by the local assessor as real and personal property.[1]

Collection. The collection of the property tax is vested in the county treasurer. Taxes are payable on and after the first day of November. The entire amount may be paid on or before December 20, or half may be paid then, and the remainder on or before June 20. In case all is paid at the first date a rebate of five per cent. is allowed on that portion due in June. If any portion is not paid when due, it may then be collected according to law and a penalty of five per cent. may be added. If half the personal tax is not paid by December 21, the whole then becomes due and the sheriff may be directed to sell sufficient personal property to cover the tax. In the same way the second half is collected when due.

If the taxes on real estate remain unpaid by June 20 of each year, the land may be sold at public auction and the amount due be paid into the county treasury. Land thus sold may be redeemed at any time within three years upon the payment of the amount for which it was sold, together with all the subsequent taxes, and interest on all at fifteen per cent. The taxes are paid over as collected to the state, city, township, and school treasurers. The state taxes are,

[1] Prior to 1898 all property of the telegraph and telephone companies was assessed by the local authorities. As the board for 1898 only held three daily sessions, it is hardly probable that anything more than a general estimate could have been made. The telegraph companies were assessed for the first wire, including poles, sixty-five dollars per mile; for each additional wire, twelve dollars per mile; tools, material, and office furniture, one dollar per mile on pole mileage. (Proceedings of Board of Telegraph & Telephone Appraisers and Assessors for May 20, 1898, in Auditor's Report, p. 250.) Telephone companies were usually assessed according to the returns of the various reporting agents (*ibid.*, June 13, 1898, p. 251).

however, paid into the state treasury, semi-annually, in July and January.

Criticism. Undoubtedly the worst feature in the practical operation of the general property tax in Kansas, is inequality of valuation. Were the true value of property taken as the basis for assessments, much of the evil of the present system would be obviated.[1]

The feature of the code responsible in large part for the mischief is the section reading:[2] "The several townships and city assessors shall meet at the county seat in their respective counties on the first Monday in March in each year, and then agree upon an equal basis of valuation of such property as they may be called upon to assess. It will be the duty of the county clerk of each county to notify such township or city assessors at least ten days previously to the date of such meetings." At this meeting the assessors determine the taxable basis; it rarely coincides, however,

[1] Equitable valuation has always been the intent of the tax laws, as may be gathered from the following extracts from the General Statutes of 1879 (Chapter 158, Sects. 44, 74 and 76):

"Personal property shall be valued at the usual selling price in money at the place where the same may be held; but if there be no selling price known to the person required to fix the value thereon, it shall be valued at such price as is believed could be obtained therefor in money at such time and place. Current money, whether in possession or on deposit, subject to be withdrawn on demand or within one year from date of deposit, shall be entered in the statement at the full amount thereof. Depreciated bank notes shall be entered in the statements at their current value."

"The assessor shall, from actual view and from the best sources of information within his reach, determine as nearly as practicable the true value of all taxable real property in money within his township or city, as the case may be."

"Each parcel of real property shall be valued at its true value in money, the value thereof to be determined by the assessor from actual view and inspection of the property; but the price at which such real property would sell at auction or forced sale shall not be taken as the criterion of such true value. All the real property belonging to religious, literary, scientific, benevolent or charitable institutions or societies, as well as all school or university lands leased or held for profit, shall be valued at such price as the assessor believes such estates would command in money."

[2] Section 42, chapter 158, of General Statutes of 1879.

with the true value of property.[1] It is not an uncommon practice to assess personal property at about one-third of its actual value; but the variations in the rate of assessments as compared with the true valuation are great. In 1897 the assessors of Atchison County decided to rate personal property at 25 per cent. of its true value; Chase County, at 33⅓ per cent.; Elk County, at 40 per cent.; Rice County, at 30 per cent.; Franklin County, at 50 per cent.; Phillips County, at 60 per cent.; Staunton County, at 75 per cent.; Decatur County, at 100 per cent. So far as I can find only three counties followed the plain instruction of the law and assessed property at 100 per cent. of its actual value.[2] The conditions in regard to the assessment of real property were even worse. The rate for real property in Brown County was fixed at 20 per cent.; in Dickinson, at 25 per cent.; in Sedgwick, at 30 per cent.; in Shawnee, at 33⅓ per cent.; in Osborne, at 40 per cent.; in Franklin, at 50 per cent.; in Graham, at 80 per cent.; in Hodgeman, at 100 per cent.; in Gove, at 200 per cent. of the actual value. Only eight counties report 100 per cent. of the actual value as the rate of assessment.

The returns for 1899 which are coming in while these pages are being written, show that the assessors continue flagrantly to violate the law and to place fictitious values on personalty. Horses are valued in Jefferson County as low as $6.97; in Grant, at $5.45; Stevens, $5.30; Marshall, $7.51; and Doniphan, at $20. Sheep are assessed at 20 cents a head in Ellsworth; mules in Logan County, at $4.27 each. In Lyon County, which is a large cattle district,

[1] "The assessors invariably interpret the last-quoted provision (Sect. 58, ch. 107, Laws of 1879) as authorizing them to fix any basis of valuation they may deem proper, and, as a rule, agree on a basis of one-third or one-fourth of the real cash value. But in actual work, even this basis is frequently disregarded by assessors, and numerous instances can be cited, in nearly every county, where property is assessed at not to exceed ten per cent. of its real value." Governor's Message, January 9, 1889, in Documents of Kansas, 1887-8, p. 18.

[2] Report of Kansas Bureau of Labor (Topeka, 1898), p. 14.

cattle are valued at $10.67; while in Jefferson County with a better grade of cattle the rate is only $6.40. Nor is the farmer alone affected by this tendency toward under-valuation. The same reports show that gold watches are valued at $3.35 in Stafford; in Stevens, at $4.46; in Comanche, at $4.42. Pianos are even held lower: Jefferson, $16.66 each; Stafford, $17.04; Ellsworth, $19.66; Grant, $20.[1]

The practice of under-valuation "pervades every tax department in the state."[2] It is due most largely to the desire of counties and townships to shift the burden of taxation.[3] Together with this strong temptation, always present, there is another factor tending in the same direction. Low assessments and a high tax rate mean less friction between the assessor and assessed, than a low rate and a high assessed valuation. The statement that the owner sees and contests before the board of equalization is the assessed value. If this is only a fraction of the real value of the property, he is slower to complain. There is more or less uncertainty in

[1] An article in the *Kansas City Journal* of June 29, 1899, contains a typical list of these valuations.

[2] "I suppose the counties of the state are primarily responsible for the present system of low valuations. A desire to lessen the proportion of certain counties in state tax, no doubt, caused the first departure from the law, and being, we may say, contagious, the pernicious system has grown until it now thoroughly pervades every tax department in the state. Having become general in its application, in the various counties of the state, it necessarily controlled the action of the assessors of the railroad property. Even the legislatures of the past became parties to it. The levies provided by law for last year, if applied to the actual value of all property in the state, would raise—no person can say how much—certainly three millions of dollars; whereas, with the present valuation, but about one million is raised. It would, therefore, seem as if the reform should be commenced with the legislature." Report of Treasurer, p. 94, in Documents of Kansas, 1885-86.

[3] "The causes which have operated to bring about these inequalities in assessment appear to be, first, a desire on the part of township assessors, and county boards, to diminish as much as possible, the proportion of their respective county and state tax; and, second, to avoid the restriction upon tax levies provided in Sec. 220, ch. 25, Laws 1877." Message of Governor, 1885, in Documents of Kansas, 1883-4, p. 9.

the mind of the average taxpayer as to the injustice of a high tax rate, while there is none as to the iniquity of a high assessment. In other words, the assessors are able to hide behind the glamor of under-valuations, whereas a true valuation gives the owner two criteria for knowing whether he is justly assessed, the value for which he can sell his property and the amount at which his neighbor is assessed.

The practice of under-valuation has been repeatedly condemned by those best acquainted with local conditions. In his message to the state legislature in 1883, Governor Martin said: "Our laws on the subject of assessment and equalization of property values for taxation need thorough revision. Assessors not only pay no attention to the laws, but, by formal agreement, assess property at from 20 to 50 per cent. of its true value, and, as a consequence, the state board of railroad assessors adopts the same rule in appraising the value of railroad property. If it were possible under such a system to obtain a uniform assessment of property values throughout the state, there could not, perhaps, be serious ground for complaint, but the valuation of property in the several counties, and often in different sections of the same county, are grossly unequal, ranging from 25 to 60 per cent. of actual value."[1] A state treasurer who had given the subject careful study and who just prior to his death was preparing for publication a report on existing methods of assessment, stated: "That a thorough reform in the vicious system of assessment which now obtains in Kansas is very necessary must be evident to every person who has given the matter thought."[2] The majority of state officers speaking in their official capacity as members of the state board of railroad assessors made the following plea in 1889:

"This Board respectfully asks that the basis of taxation on all property in Kansas shall be its actual value, to the end that every incentive shall be given to honestly acquire

[1] Message of Gov. Martin, in Documents of Kansas, 1883-4, p. 8.
[2] Treasurer Howe's Report, in Documents of Kansas, 1885-6, pp. 92-3.

the blessings and equally share the burdens of the commonwealth."[1] Finally the Supreme Court in a recent decision renews its strong condemnation of inequitable assessments.[2]

In the case of real estate there is a marked tendency to assess small tracts of land relatively higher than large or valuable estates. For example, in Brown County, land with a selling value of $1000 and with an average value of $10 per acre, is given an assessed valuation of $665, and pays a tax of $25.23; while land with actual selling value of $11,000 and with an average value of $50 per acre, is given an assessed valuation of $2045 and pays a tax of $75.55. That is, the owner of a small tract pays one-third as much tax as the owner of a tract worth eleven times as much. In Shawnee County, land with an actual selling value of $3770.50 and an average acre value of $24.37, is assessed $1344.75, and pays a tax of $35.24; while a tract with an actual selling value of $8500 and an average acre value of $34.10, is assessed at $2073.75, and pays a tax of $62.14. Here the smaller land owner pays more than half as much tax as the other, with much less than half as much property. In Franklin County a small piece worth in the market $400 at the rate of $30.76 per acre is assessed at $260 and pays a tax of $8.55; and in the same county a tract worth $3481.25 at the rate of $25.00 per acre, is assessed at $1091.25, and pays $27.54 in taxes. The man with almost nine times as

[1] Report of Railroad Assessors for 1891, in Documents of Kansas, 1889-90, p. 21.

[2] "The constitution ordains that the legislature shall provide for a uniform and equal rate of assessment and taxation. To compel uniformity and equality of assessment and taxation, the statute provides that all property shall be assessed at its true value. The habitual disregard of the statute relating to the valuation of property for taxation by local assessors has been continuously condemned in the decisions of this court from Adams *vs.* Bernan to Chaliss *vs.* Riggs. The injustice of the system of taxation growing out of the constant and continued disregard of the proper valuation of property, becomes more and more apparent. Here there has been a gross discrimination in the taxation of railroad property. The law has not been observed. The taxes complained of are not equal and uniform." Railroad Company *vs.* Commissioners of Atchison County, 54 Kansas, 787.

much property pays only three times as much tax. Nor are these isolated cases. They are taken at random. Many more striking instances might have been chosen, but the intention has been to show average, not exceptional, conditions.[1]

In the first case cited, if the larger holder paid $75.55 tax, the smaller should have paid about $7.00 tax instead of $25.23. But $7.00 means a small tax-bill and the assessor is inclined to raise the amount. On the other hand, if the smaller holder paid $25.23, the larger should have paid about $277.53; but $277.53 seems to be an impossible amount and the assessor is inclined to lessen the burden. The anomalous results following from the practice of undervaluation are again shown in the following table, compiled from the Thirteenth Annual Report of the Kansas Bureau of Labor and Industrial Statistics:

Per Cent. of Assessed Valuation to Real Valuation.

County.	Land.					Lots.				
	Less than $250.	$500 to $1,000	$2,500 to $5,000	$5,000 to $10,000	$10,000 to $25,000	Less than $250	$250 to $500	$500 to $1,000	$1,000 to $2,500	$2,500 to $5,000
Atchison	.....	31.8	16.5	13.1	....	44.9	35.8	25.1	29.3	32.5
Barber	159.1	57.1	....	....	....	102.5	16.5	8.6	21.8	....
Bourbon	173.1	45.4	30.1	19.5	14.3	59.9	44.2	38.7	35.7	50.0
Brown.....	88.7	66.6	17.2	17.0	18.5	41.4	30.5	19.1	19.1	23.0
Butler	312.0	30.4	20.3	13.7	....	52.7	15.1	53.8	32.6	....
Chautauqua ..	180.0	39.8	21.8	....	....	87.5	39.6	25.3	16.8	6.1
Comanche....	153.0	31.2	20.7	....	....	106.0	56.0	....	....	....
Doniphan	33.0	26.0	23.6	16.6	18.0	46.2	29.8	26.0	24.9	....
Douglas.....	93.1	26.4	21.4	23.2	23.2	44.0	39.5	32.6	23.0	27.3
Ellsworth....	373.3	55.9	56.5	....	....	100.9	51.4	50.6	1.5	....
Ford	165.6	34.8	28.0	10.3	....	176.6	67.5	38.2	....	....
Franklin	65.0	39.4	31.2	....	....	39.7	35.6	24.8	27.8	32.5
Hamilton.....	142.9	34.5	11.3	25.4	....	74.6	90.7	60.0	....	....
Leavenworth .	36.1	36.6	22.7	19.1	10.6	52.4	40.9	30.6	42.4	47.8
Mitchell	150.0	47.6	35.7	....	....	60.0	25.0	51.7	38.0	....
Sherman	121.2	22.1	....	....	....	106.6	28.1	34.6	....	....
Shawnee	89.5	55.3	35.6	24.3	....	81.2	63.2	53.9	42.2	37.8
Wabaunsee...	200.8	27.1	19.7	....	....	35.6	22.5	12.6	....	19.5

[1] These illustrations are taken from the Thirteenth Annual Report of the Kansas Bureau of Labor and Industrial Statistics. The figures given are authentic, *i. e.* in each instance an actual sale has taken place during the year at the selling prices given.

Here the actual value of agricultural land and building lots in eighteen counties is tabulated. The real value of each group determined by an actual sale and the total assessed value as shown by the assessors' returns have permitted a computation of the percentage of assessed value of each group to its real value. The same tendency to under assessment of large holdings appears again. In several counties, notably, Jackson, Smith, Wyandotte, and Russell, this is not so apparent, but I am convinced from personal examination of actual sale values as compared with assessed values extending over several years and including the returns from fourteen townships, that unusually high assessments in special cases, irregularity everywhere, and a general tendency toward over-assessment of the small, cheap tracts are prevailing conditions.

Especially is it certain that almost worthless lots in small towns are assessed proportionately higher than valuable lots in the cities. The judgment of the assessor is usually the cause of the evil. One township was examined where excessive irregularities were shown. In such cases very much more severe criticism could be made; but as these abuses are solely the fault of the electors in choosing inefficient officials and are probably not very common cases, further comment may be reserved for a criticism of the method of selecting assessors. Sometimes it is sympathy that changes the assessor's report, sometimes it is fear. In either case there is little uniformity in land valuations in the same locality.[1] What has been said of inequality in

[1] There is an almost universal expression of dissatisfaction with our present mode of assessing property for taxation. That it is unequal, and consequently unjust, no one familiar with it would for a moment deny.—The only safe rule to follow is to assess all property at its actual cash value, without regard to its character or the use to which it is applied. The inequality arises, not from the fact that the property of the state is assessed too low, but because it is assessed unequally. When one piece of property is assessed at 10 per cent. of what it is really worth and another piece is assessed at its full value, and other property is not assessed at all, great injustice is done to some of the taxpayers; and yet that condition of

real estate valuation holds true of personal property. Indeed, the conditions are even more unsatisfactory. The accepted rates of assessment for certain classes of personalty in 1898 are shown in the following table:

County.	Gold Watches.	Wagons.	Pianos.	Wheat.	Corn.	Hogs.
Allen.....	$5–$25	$5–$50	$25–$200	45c. per bu.	10c. per bu.	1½c. per lb.
Barber..	Discretion of Assessor.	$5–$15	$10–$50	10c. "	20c. "	1c. "
Brown....	One-third cash value			6c. "	22½ "	1c. "
Bourbon	$15–$75	$5 and upward.	$15–$200	value	value	1–3c. "
Clay.....	$5–$25	⅓ value	$15–$100	25c. per bu.	5c. per bu.	1c. "
Decatur...	value	value	value	30–35c.	5–8c. "	1½c. "
Doniphan.	....	....	....	25c. "	6c. "	1c. "
Jackson ..	$1–$20	$5–25	$25–$100	40c. "	....	1½c. "
Johnson ..	$10–$25	$5–20	$25–$100	30c. "	10c. "	....
Mitchell ..	$10	$10–$15	$10–$250	30c. "	7c. "	1½c. "
Wilson.	$10 and upward.	(new) $40	$75 and upward.	75c. "	15c. "	3¼c. "

These details do not reveal the worst features of the system, namely, the extent to which the assessor's discretion permits him to depart from the agreed basis for the county. It does show that the owner of 1000 bushels of corn in Clay County has it assessed at $50.00, while the less fortunate owner of the same amount in Wilson County will probably be charged with $150 on his corn account; that in paying the tax on hogs the Brown County man will only have to pay one cent per pound, while the Wilson man will have to pay 3¼ times as much. One thousand bushels of wheat in Brown County would have an assessed valuation of $60.00; while in Bourbon, this would be about $750; in Jackson, $400; in Baker, $100; in Wilson, $750. Even worse conditions exist in many other counties and upon other articles.

things actually exists in our state to-day. Millions of dollars worth of property escape taxation entirely as a result of ignorance, inefficiency or wilful dishonesty on the part of assessors. Other property is assessed at from 10 per cent. to 100 per cent. of its actual value according to the judgment or whim of the assessor." Governor's Message, January 15, 1895, in Documents of Kansas, 1893-4, p. 11.

For local purposes of taxation this would not matter so much; but where each city or township must contribute its quota of state taxes there is a constant tendency to undervalue property in order to shift the burden. The county reporting the lowest valuation is called upon to pay the least state taxes. Nor does the state board of equalization counteract this tendency. The board is constituted of officials incapable, from the various other duties imposed upon them, of giving the subject of equalization necessary time and consideration and without intimate acquaintance with local conditions. As a matter of fact, but three or four days are devoted to this work,[1] and even then all that the law permits the board to do is to increase or decrease the total returns from particular counties by such percentage as may be agreed upon. But the aggregate amount for the state must not be decreased. It is evident that inequalities due to any individual assessment cannot be rectified.

Another weakness already noted, is the fact that the equalization only affects the assessment for state purposes. The original assessment as fixed by the county board is retained for local taxation. Under the present law, the board is handicapped by a lack of power. But even with an increase of power it would still be impossible to attain any satisfactory degree of equality in the case of counties striving by every means to reduce their assessments. Such an increase might be beneficial; but it would by no means enable the board entirely to correct the inequalities of local assessments.[2]

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[1] Proceedings of State Board of Equalization, p. 128, in Documents of Kansas, 1889.

[2] "There is absolutely no way for the state board of equalization to correct this evil. The only thing it can do when it believes the assessment of a county as a whole is too low, is to raise the assessment on all property, both real and personal. It cannot equalize individual, personal or real property under the present law. A bill will no doubt be passed at the next session of the legislature giving it authority to revise the equalization as fixed by the county commissioners. This would take the assessment out of the influence of local surroundings and would enable the state to have a just assessment" (*Kansas City Journal*, June 29, 1899).

From available statistics it appears that in the majority of counties, the assessed valuation of both real and personal property is about 33⅓ per cent. of the actual value. For some reason hardly clear to me, manufacturing and industrial concerns escape with a much lower basis of assessment. The figures presented in the Thirteenth Report of the Kansas Bureau of Labor are so suggestive in this particular that they are here quoted in entirety. While these figures are representative and not exhaustive, they may be taken as typical and approximately correct:

Industries.	Amt. of capital invested. (Buildings, grounds, machinery, etc.)	Amount of Assessed valuation.	Per cent. of Assessed valuation to capital invested.	Average amount capital invested, per plant.	No. reporting.
Packing-houses	$9,667,202	$581,075	6.0	$2,416,800	4
Salt-works	725,000	48,145	6.6	181,250	4
Coal-mining	1,908,089	251,145	13.1	127,206	15
Milling	1,641,074	341,265	20.7	36,468	45
Cement manufacturing..	130,000	11,096	8.5	32,500	4
Miscellaneous mnfg....	928,069	104,226	11.2	27,297	34
Planing-mills	93,000	12,560	13.5	23,250	4
Foundries	124,700	17,280	13.8	20,783	6
Brick manufacturing...	122,250	15,051	12.3	13,583	9
Cooperage	55,600	5,895	10.6	11,120	5
Creameries	210,742	33,757	15.9	11,091	19
Grain and elevators.....	86,377	8,190	9.4	10,797	8
Plumbing	38,600	4,680	12.1	7,720	5
Carriage mnfg.....	21,000	3,678	17.4	7,000	3
Bakeries	35,600	2,996	8.4	5,933	6
Printing and publishing,	362,980	64,979	17.9	5,671	64
Bottling-works	52,100	4,911	9.4	4,736	11
Laundries	50,523	7,495	14.8	4,593	11
Marble and granite.....	35,600	2,584	7.2	4,450	8
Merchant tailoring	16,300	2,990	18.3	4,075	4
Cigar manufacturing ...	27,250	5,497	21.7	1,362	20
Totals and averages.	$16,333,256	$1,529,495	8.1	$56,516	289

The conditions prevailing in Kansas as to the assessment of personalty are similar to those existing in other states. Returns are incomplete and unfair. The possibility of deceiving the assessor places a premium on dishonesty, and a

large percentage of personal property escapes taxation entirely. The system of township assessors is largely responsible for the worst evils in local conditions. Uniformity cannot be obtained where there are many assessors, each with his own ideas as to valuations and property rights, and with his own and his neighbor's interests to protect.[1] Finally the assessment is often the work of men utterly unqualified for the task undertaken. Much less pains are taken in selecting a city assessor than a city street commissioner. Yet the former can, by ignorance, damage the public infinitely more than the latter by wilful plunder. The general defect in the present method is well stated in a recent governor's communication to the legislature:[2] "Now we have about 1,600 assessors, largely men with little practical experience, selected more because they have little else to do and are good fellows, each trying to keep his assessment down so that his township may pay less than its honest share of the taxes. These men are elected for one year and are dependent for their re-election upon the men whose property they are valuing."

The general property tax fails in Kansas to accomplish the true aim of all equitable taxation. Yet it is evident that its operation is attended with less unfairness than in many states of the Union. Kansas has fewer large cities and less diversity in industries than almost any other commonwealth. In so far as the agricultural interest is dominant, one of the worst features of the general property tax is avoided. But as a matter of fact, even in Kansas, the general property tax is becoming a single tax, and a single tax

[1] "So long as township trustees are employed as the assessors, just so long will unequal and unjust assessments be the rule. It is absurd to expect that these officers, holding their positions by the votes of those whose property they assess, will not each endeavor to secure for his neighbors and constituents all possible exemption from the burdens of taxation." Governor's Message of January 9, 1889, p. 17.

[2] Governor Morrill's Message of January 15, 1895, in Documents of Kansas, 1893-4, p. 12.

on the farmer's property at that. An examination of the returns of the assessors speedily reveals the fact that those who own no real estate are, as a rule, not taxed at all unless engaged in some mercantile business. In view of this circumstance it is impossible to escape the conclusion that there is a direct connection between the depression in Kansas farming lands so long complained of, and the undue burden of taxation falling upon this form of property. The burden of Kansas taxation falls upon the farmer as his property is tangible, upon the guardian, executor and trustee whose accounts are matters of public record, and upon the scrupulously honest man everywhere. Bonds, stocks, money, credits, notes and mortgages evade taxation regularly.

Mortgages in Kansas must be recorded at the Register's office and it would seem that with a little effort on the part of the assessor these might always be listed; but as a matter of fact they often escape taxation. In most cases the assessor fails to find them, and even when located it is difficult to determine from the Register's reports whether the mortgage has been paid in part or not. Many mortgage payments are in three or four payments and the mortgage is not cancelled until the expiration of the entire time. No one recognizes more fully than do the assessors themselves the fact that a large portion of personal property escapes assessment; but they realize fully their helplessness. If a man returns an incomplete list of his personal property the assessors are practically unable to discover or force him to disclose the true amount. True, there is recourse to the courts and the summons of witnesses; but the methods of concealing and removing personal property are so numerous that this ordinarily means only an additional burden upon the honest taxpayer.[1]

[1] The Fourteenth Annual Report of the State Bureau of Labor (Topeka, 1899) has appeared since the above was written. This report contains definite and conclusive evidence upon the escape of personalty in Kansas in the form of a comparison of the valuations

Corporation Tax

There has never been any distinct corporation tax in Kansas. Corporations are taxed, at the ordinary rate of the property tax, on the value of their capital stock over and above the value of their realty and tangible personalty. There is a special law for taxing insurance companies, which may for convenience, be classed as corporation tax. This tax is imposed on the gross receipts of the companies as distinct from the assessed valuation of their property. The law requires every fire insurance company doing business in a city having an organized fire department with an equipment to the value of $1000 or upward, to pay to the Superintendent of Insurance two dollars upon every one hundred dollars received from premiums on fire and lightning policies within the city. The money is paid into the funds of the Firemen's Relief Association of the various cities. In 1897, $16,239.90 was derived from this source.[1]

Prior to the special session of 1898 the law required all foreign insurance companies doing business in the state to pay annually to the insurance department, two per cent.

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of probated estates with the assessors returns thereupon. Sixty-four estates, covering data from five counties, are shown to have included real estate appraised at $98,822.85 by the probate courts while the assessors valuation was $40,691.50; that is, the assessed value was 41.1 per cent. of the appraised value. With respect to personal property of the class known as goods and chattels, two hundred and forty-seven estates were examined from nine counties. These had a total appraised value of $371,577.74 and an assessed value of $38,725.60, making the appraised value 10.4 per cent. of the assessed value. In the case of bonds, mortgages, notes and other securities, one hundred and fifteen cases from seven counties yielded a total appraised value of $430,608.01, and an assessed value of $4045.00, or an assessed valuation of 9 per cent. of the appraised value. Debts and accounts to the amount of $48,893.72 from thirty-four cases covering four counties reporting were not assessed at all. Moneys, bank-bills and other circulating medium, from one hundred and thirty-two estates of eight counties, were appraised by the probate courts at $109,701.55 and were assessed by the local assessors at $1763, or 1.6 per cent. of the appraised value.

[1] Report of Insurance Department, pp. 45-8 (Topeka, 1898).

on all premiums received during the year.[1] The law was, however, designed to regulate the business of the insurance companies, rather than to provide a distinct source of revenue. Its immediate purpose was to make the insurance department self-supporting. If in any year the revenue thus derived proved insufficient for this purpose, the Superintendent of Insurance was authorized to assess upon the insurance companies such additional amount as might be required, subject to the provision that the assessment must be for an equal amount upon each company.

At the legislative session of 1898 an additional tax was imposed upon insurance companies. All foreign insurance, guaranty, and accident companies now pay an annual tax of four per cent. upon all premiums instead of two per cent. as formerly required. Domestic companies not organized under the laws of the state pay a state tax of two per cent. upon all premiums received, whether in cash or notes or on account of business done in the state. These taxes are assessed and collected by the state Superintendent of Insurance, who is made an elective officer with a term of two years. The taxes thus collected ultimately go to the general revenue fund. At the regular session of 1899 the legislature passed a law providing for the taxation of contracts of insurance made with companies not authorized to do business in Kansas. "All such insurance contracts shall be taxed in a sum equal to ten per cent. of the amount of premiums paid or contracted to be paid thereon."[2] This tax, when collected, is applied as follows: Three-fifths to the payment of the expenses of the insurance department and two-fifths to the treasurer of the city or township in which the property insured is located, for the benefit of the fire department. If no such department is organized, either paid or volunteer, this fund is devoted to the ordinary expenses of the city or township.

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[1] This fund amounted to $17,005.39 in 1897, and was credited to the general revenue fund.

[2] Eleventh Biennial Session Laws, Topeka, 1899, "Act to provide for the taxation of contracts."

The corporation laws of Kansas, in so far as they relate to taxation, need thorough revision. As the laws now stand corporations are taxed through the local agencies under the general property tax. "The liberality of the state permits the creation of corporations for nearly every conceivable purpose, conferring great power and valuable franchises upon them, without any direct charge or expense whatever."[1] The result has been to flood the state with many corporations existing only in name, but possessing valuable privileges for future exigencies. A further abuse rests in the fact that many residents of other states became incorporated in Kansas and, engaging in business principally outside of the state, avoid taxation altogether.[2]

License Taxes and Fees

Properly speaking there are no state license taxes in Kansas. The charges which are sometimes so called are either fees or insurance taxes. The statutes, however, permit cities to levy license taxes, and a considerable local income is obtained from this source. The mayors and city councils have almost unlimited power in this respect. They may levy license taxes upon all "callings, trades, professions and occupations," including everything from a dog tax to a public lecturer's license.[3]

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[1] Governor's Message, Jan. 16, 1889, Documents of Kansas, p. 23, 1887-8.

[2] "In Kansas it costs only the mere nominal fee charged for filing the charter to create a corporation conferring important powers and valuable franchises. For this privilege many states require all corporations organized for profit, in the prosecution of business enterprises, before chartered, to pay a bonus or fee to the state, based upon the capital stock. Such a law in this state would yield some revenues, cut off many of the abuses complained of and exclude parties who take advantage of our present law to incorporate here without expense to do business in other states." Message of Governor, 1891, in Documents of 1889-90, p. 26; see also Report of Secretary of State for same date, p. 6.

[3] As a rule all scientific and literary lectures and entertainments, together with concerts and musical or other entertainments, given by "home talent" are exempt from such taxation. In cities of the third class these are exempted by the state law.

License fees constitute an important source of state income. The treasurer's report for 1898 shows the following receipts of this kind:

Secretary of State	$ 2,188.75
Auditor	942.45
Bank Commissioner	6,742.40
Oil Inspector	9,384.46
Insurance Department [1897]	19,316.07
Total	$38,574.13

The fees paid to the secretary of state are charges for making copies of laws, resolutions, bonds, records, documents, or papers deposited in his office, and attaching thereto his certificate and his official seal.[1] The fees received by the bank commissioner are in accordance with the law requiring an annual examination of every bank doing business in the state, except national banks, subject to a charge varying from fifteen to thirty-five dollars according to the amount of the capital stock of the bank. The fees of the state oil inspector are paid by the owner of oils for testing, and vary from forty cents for a single barrel to ten cents per barrel for lots of over fifty barrels. Neither here, nor in the case preceding, is it designed that the fees should be a source of state income, beyond the amount required to defray the expenses of the respective departments.

By far the larger portion of state revenue from fees comes from the department of insurance. Every insurance company doing business in the state pays for the filing and examination of its charter and the issuance of a certificate of authority, the sum of fifty-five dollars; for filing the annual statement required, fifty dollars; for each license granted to agents, two dollars; for every copy of a paper filed in the Superintendent's office, twenty cents per folio; and for affixing the seal of office and certifying any paper, one

[1] For making the copy he is entitled to ten cents per folio, and for certificate and seal, fifty cents. The auditor may likewise be required upon payment of the same fees to make copies of records in his office, and to certify to them with his signature and the seal of his office.

dollar. In addition, each company is required to pay each year a license fee of fifty dollars into the school fund.[1]

As a means of raising state revenue this method is of doubtful propriety. There is constant danger of abuse and the principle has been repeatedly criticised by state officials. In cities and counties it serves to defray a considerable portion of the salaries of officials. Thus the salaries of the district clerk, sheriff, county treasurer, probate judge, county attorney, surveyor, register of deeds, and coroner, are largely paid by fees. The salary of each officer is fixed in amount, and the fees exceeding that amount are paid into the treasury to the credit of general fund.

Poll Tax and Road Tax

The poll tax has been abandoned in Kansas. Cities of the second and third class have the power to levy such tax, but it must be by city ordinance. The city council may impose a tax not exceeding one dollar on all able-bodied males between the ages of 20 and 50 years. I have not been able to find any record of such a tax having been imposed in any city within recent years. Under the territorial government, as has already been pointed out, a territorial poll tax was employed. Its collection was difficult and its use, as in other states, unsatisfactory. Upon the organization of a state government, the poll tax was aban-

[1] These fees apply to all foreign insurance companies, life and fire, and to all insurance companies organized under the laws of Kansas, respecting which no special charges or fees are prescribed, except joint stock fire insurance companies, mutual fire and mutual life companies organized under Kansas laws. The former pay twenty-five dollars for filing and examination of charter and issuance of certificate of authority by the superintendent of insurance; for any other certificate required, fifty cents; for filing the annual statement, ten dollars; for copies of papers filed in the office of department of insurance, ten cents per folio. Mutual fire companies are required to pay the same fees excepting the fifty cent fee. Mutual life companies pay one hundred dollars for the filing and approval of papers necessary for organization; for each licensed agent, fifty cents. These fees are in lieu of all other state fees.

doned and the permission given to cities has remained, in practice, a dead letter.

The poll tax, which may only be employed to secure municipal revenue, is, however, wholly independent of the county road tax of $3.00 which is authorized under the general statutes. Throughout the state all male persons between twenty-one and forty-five years of age, who have resided thirty days in the state, are required to perform two days' work on the public roads or streets, or furnish a substitute, or pay the sum of $3.00 to the road overseer or street commissioner. The refusal to comply with this is a misdemeanor subject to a fine of five dollars upon conviction before any justice of the peace. In addition to this regular tax, the county commissioners of each county may levy a road tax of not more than three mills on the dollar, on all taxable property except on the real estate in cities of over 2000 inhabitants.

Conclusion

In the preceding pages the effort has been made to show the actual status of taxation in Kansas. Not all the methods in use are evil; nor, on the other hand, are they all worthy of a large, growing, and progressive commonwealth. The general property tax might have served as the exclusive form of taxation in days when population was small, when differences in tax-paying ability were slight, and when the opportunities and incentives to evade taxes were less frequent. But now what seems most needful is greater variety in taxes to correspond with the various sources of individual income. The problem is to find taxes which cannot be avoided, which are not regressive, and which have stood the test of experience in older states where similar conditions have prevailed. Whatever changes are made in the immediate future should be such as will tend to develop in the state a broader and more equitable system of raising revenue. Legislation should be so shaped as to evolve new tax methods rather than to inaugurate an outright revolution in the existing system of taxation. There is no reason why

Kansas need pass through the period of costly experimentation which characterizes the experience of so many of the American commonwealths. There has been comparatively little tax legislation in the state. In most respects the earliest methods continue to prevail and consequently there are no local prejudices. There is a general feeling of dissatisfaction, but there is no unanimity of opinion as to what should be done. Public opinion will probably crystallize slowly, and as a result all essential reform must be gradual. There are certain changes, remedial in nature, that can be made at once, and it is to these that attention should first be directed.

For some time to come the general property tax will doubtless continue to be used as a prime source of state revenue, and the earliest possible legislation should contemplate an improvement of this tax. The county clerks, at a convention recently held, adopted a resolution urging the election of a county assessor for each county.[1] The officials making this suggestion have a knowledge and experience in regard to the practical working of existing assessment laws, that entitle their opinion to consideration.[2] In order to make the office as nearly non-political as possible, the assessor might more properly be appointed for a term of four years by the judge of the district court. The judge should have power to remove for cause and to fill vacancies, and by his advice and consent the assessor should have authority to appoint deputies.[3] Such a change if inaugurated would bring the most efficient men into the really difficult work of valuing property. It would tend to equalize valuations and would fix responsibility for any inequalities in county assessments to a degree not now attained. It would free the work from most of the local influences and

[1] Gov. Martin's Message, Jan. 9, 1889, Documents, 1887-8, page 18.

[2] In 1881 such a bill obtained the approval of the Senate committee on Finance and Taxation, but was defeated in the Senate chamber. Senate Journal, 1881, p. 741.

[3] This plan was, in substance, included by Gov. Humphrey in his recommendations to the state legislature, see Message of Jan. 16, 1889, p. 22.

jealousies now impeding it,[1] and finally the assessment of property at its actual value could be effected more quickly than under the present method.[2]

To secure the taxation of bonds, notes, mortgages, judgments and credits, a law providing that the county assessor should stamp all such papers and that they should not otherwise be received as competent evidence and hence not collectible would probably be effective. Any attempt to pass an unstamped paper should render the person subject to a fine not to exceed fifty dollars.[3] The only possible objection to this device would be that occasionally valueless papers would be taxed. This consideration seems to have been responsible for the defeat of the measure in Indiana. The objection is weakened by the fact that at the present time the attempt is everywhere made to tax such papers at their face value regardless of their actual value. The prime purpose of the added provision is the enforcement of a law almost universally approved. Whether the paper is of any real value is the concern of the holder and its taxation will only tend to decrease the amount of valueless notes and credits in existence.

Insufficient publicity is given the assessment records in Kansas at the present time. Nothing hinders the county clerk from making public the returns of the township assessors nor, on the other hand, does any law require him to expose such records for public examination. As a matter of fact when the county clerk does do this it is as an accommodation and not as a duty. The county assessors should be required to keep the assessments in a convenient form

[1] Compare the conclusions of the Revenue Commission in a state where conditions similar to those in Kansas prevail: "The county assessor, free from township jealousy, acting for the whole county, with a longer term, more time in each year, better equipped for finding out and valuing property, better paid, and more conspicuous in the eye of the people, ought to, and we believe will, do his work better than it is now being done by township assessors." Report of Revenue Commission for Illinois, p. viii.

[2] Gov. Stanley's Message of Jan. 10, 1899, p. 11.

[3] Similar bills have been introduced and barely failed of passage in the legislature of Iowa (1896) and Indiana (1899).

and place for public examination. Publication in the official county newspaper would strengthen still further the work of equitable assessment and is here recommended. A final recommendation for the improvement of the general property tax is the strengthening of the present method of county equalization, so that the present board should become a board for the review of the assessments of the county officer. The present limit of ten days should be extended threefold. The county commissioners have the time for such service and, generally speaking, are best qualified to act as a check upon the work of the county assessor who is, in turn, to be removed from local influences. Thus the county board becomes the immediate representative of the people. The services of the county clerk on this board should in that event be dispensed with. The county board is at present unable to add to any particular tax assessment personal property not already listed there.[1] This should be modified so that property not listed by the county assessor could then be included.

Such legislation would by no means perfect the system of taxation in Kansas; but it would improve very materially one source of revenue. It has been repeatedly stated in this paper that what the western states need at present is the development of more varied sources of public income. This can be accomplished gradually as conditions permit or demand. In Kansas an opportunity already exists for a considerable increase in variety of sources of revenue and the constantly increasing importance of intangible wealth will only accentuate this condition. The further development of the state's resources and the general industrial progress of the West will in time demand even further changes. These facts must be kept in mind in constructing a broader basis of taxation.

The taxation of other forms of wealth than those now actually taxed will make possible the separation of state and local taxes. This is an end much to be sought. It will

[1] Coal Co. *vs.* Emlen, 44 Kansas, 117.

remove the largest incentive toward low valuations and relieve the state of the necessity of equalizing the county assessments, a task most unsatisfactorily performed at present.[1] The suggestion is no new one. As far back as the early territorial period we find Governor Walker writing: "Now if Kansas, like the state of Illinois, in granting hereafter these lands to companies to build (rail) roads should reserve, at least seven per cent., of their gross annual receipts, it is quite certain that so soon as these roads are constructed, such will be the large payments into the treasury of our state, that there will be no necessity to impose in Kansas any state tax whatever, especially if the constitution should contain wise provisions against the creation of state debts."[2]

The first step towards providing the state with distinct sources of revenue should be the development of a commonwealth tax on certain corporations, leaving all others to be taxed for local purposes. Under present conditions the state might impose a corporation tax upon the gross receipts of railroads, telegraph, telephone, express, insurance and irrigation companies.[3] The application of this method would necessitate an amendment to the constitution of Kansas. With the present disposition of the people toward enterprises controlling large capital it is probable that this

[1] The separation of state and local sources of revenue is recommended in the Report of the Revenue Commission for Illinois, p. ix, the Report of the Tax Commission, Oregon, Salem, 1886, and Taxation in Iowa, Noble, pp. 6, 7. The Report of the Committee appointed by the Tax conference of Pennsylvania Interests to examine the tax laws of the American states finds that the best feature of the Pennsylvania system as compared with other states lies in the separation of state and local taxation (Harrisburg, 1892). Five states, viz., Delaware, New Jersey, Pennsylvania, Wisconsin and Vermont, have more or less completely accomplished this separation. Seligman, American Statistical Assn., Vol. I, p. 412.

[2] Inaugural, May 27, 1857, in Kansas State Historical Collections, V, p. 330.

[3] Preliminary to the development of the corporation tax it is essential that the corporation laws be so amended that no corporation could be created or organized under the laws of Kansas for purpose of profit except the incorporators have paid into the

could be secured.[1] Such a program would necessitate the surrender on the part of the townships and counties of all local taxes upon railroads except upon real estate holdings. The compensation to such localities would lie in their relief from the state property tax.[2]

Telegraph, telephone and express companies should be taxed in the same way.[3] Probably three per cent. of gross receipts, apportioned on the mileage basis would be adequate at first. The state is just beginning to tax the former companies while the express companies are scarcely taxed

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state treasury a specified rate per cent. on the capital stock and a further rate per cent. whenever the capital stock is increased. One-tenth of one per cent. is suggested as a rate. The object in view is less to secure revenue than to prevent foreign or bogus corporations from taking advantage of the present tax laws. The payment is made once and is not in the nature of an annual tax, but rather of a franchise tax. Cf. Message of Governor Humphrey of Jan. 16, 1889.

[1] "If the capital of individuals and corporations or their incomes should be taken into account in arriving at assessed value of their property for taxable purposes, then the people through a constitutional convention and their representatives in the legislature should provide by law that such a basis should be made for assessments." Report of Board of Railroad Assessors (John N. Ives, Attorney-General).

The Constitution of the State of Kansas, Article XI, Section 1, requires the legislature to provide for a uniform and equal rate of assessment and taxation.

[2] The gross earnings of the railroads of Kansas for 1897 were $25,331,768.77 (Fifteenth Annual Report, Board of Railroad Commissioners, Topeka, 1898, pp. 23 and 29), and the total assessed value of all railroad property was $59,210,883.80. For the same year the railroads paid as general property tax, $2,030,175.20. This would require a rate of 8 per cent. to yield a sum equivalent to the present amount.

[3] "The Treasurer ventures the opinion that there should be devised a more perfect system for the assessment and taxation of telegraph, telephone, express and other companies of like character. The telegraph company is taxed only upon the cost of construction of its wires. The other companies are presumably taxed locally. The franchises of all these companies are valuable. Just what system would be best can be determined only after careful investigation. Possibly a per cent. of the gross earnings paid into the state treasury, if the legislature has the power to order it, would be the simplest way. The matter is worthy of consideration" (Treasurer's Report, 1885-6, p. 95).

at all. For this reason there are no available statistics upon which to base estimates for the amounts that may be expected therefrom.

Insurance companies are now taxed two, four and ten per cent. upon the premiums received. The Superintendent's report for 1897 states the total premiums of all companies—life and fire—as $2,846,183.80. Four per cent. tax here yields $113,855.36. This will probably be approximately the direct tax income of the state under the new law. It is too early yet to make a more definite estimate from this source. The irrigation tax, a percentage rate upon the receipts of irrigation companies should be the next to be applied to state purposes. The development of the irrigation system of the state should, however, not be crippled and present conditions hardly warrant the taxing of such companies more than for local purposes. Here a possibility of further extension in the future is all that is suggested.

Turning from the development of a state corporation tax there still remains open for Kansas as a lucrative and legitimate source of revenue the tax upon inheritances. No tax is more in accord with the democratic tendencies of the day, and toward no other tax has there been a more decided movement in western commonwealths during the recent years. In Iowa where conditions closely resemble those in Kansas, a three per cent. collateral tax is levied.[1] Missouri in 1895 adopted a progressive collateral inheritance tax of five per cent. on amounts up to $10,000 and seven and a half per cent. on all amounts in excess of $10,000.[2] Illinois has a tax on direct inheritances of one per cent. on amounts in excess of $20,000. For collaterals the rates are for uncles, aunts, nephews, nieces and their descendants, two per cent. on excess over $2,000. In other cases, after an exemption of $500, the rates are three per cent. on

[1] Noble, Taxation in Iowa (New York, 1897), p. 6.
[2] Seligman, Essays on Taxation, p. 134.

amounts from $500 to $10,000; four per cent. on amounts from $10,000 to $20,000; and from $20,000 to $50,000 a rate of five per cent.; above $50,000 the rate is six per cent.[1] The Illinois law, with its progressive features, seems to be particularly commendable. The revenue in Kansas from this source would hardly be comparable for some years with that derived in older states, yet there is no reason why this tax should not be employed immediately. With some such legislation as has been here suggested Kansas would be placed in line with the most progressive commonwealths, so far as taxation is concerned. State and local taxes would then be entirely separated. The state levy on general property would be abolished; taxes for local purposes would be raised by the assessment of real and personal property and by license taxes. Taxes for state purposes would be distinct taxes, such as the tax on gross earnings of certain corporations, and the inheritance tax. When it is remembered that the direct state tax is only $1,413,695.08,[2] and that the railroads during the same year paid in a general property tax of $2,395,551.73,[3] there can be no doubt of sufficient state revenue. Indeed, a considerable surplus would be realized either for distribution among the counties for local purposes or for application to the annual school fund, thus lightening the burden in the more sparsely settled portions for school purposes and making possible a more uniform school support. Not a change is here suggested that has not been tried in the crucible of experience. Not a suggestion is made which has not received the endorsement of skilled writers upon commonwealth taxation. Indeed, each provision is to-day in operation in many of the older states. Undoubtedly the result would not savor of perfection, but it would improve existing conditions. Democratic institutions are given to us to improve as our measure of intelligence and experience increases.

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[1] *Ibid.*, p. 134.
[2] Report of State Auditor for June 30, 1898, p. 146.
[3] *Ibid.*, p. 308.

Public School Taxation

A discussion of taxation in Kansas seems incomplete without some reference to the method of raising revenue for the support of the public school system. No portion of the state tax goes to the school fund, but it is at this point that state and local taxes overlap. What the annual interest upon the permanent state school fund does not supply must be made up by local levies upon general property. It is only a few years since the one mill levy by the state was abandoned, and now it is proposed to restore the old state levy. This suggestion which would make taxation for school purposes a part of state taxation, and the close manner in which local and state revenue are here made to supplement one another, will probably justify a brief discussion of the matter in connection with a study of commonwealth taxation.

The present system of school taxation is unsatisfactory. The main revenue is derived from the levies made by the different school boards. In some districts a levy of two or three mills on the dollar will keep a good school for nine months, while in another almost adjacent to it, because of difference in amount and assessed valuation of property thirty or forty mills will only keep the school open four months, and then with an underpaid or cheap teacher and with insufficient furnishings and accommodations.

With a low property assessment the school board is obliged to levy a large rate in order to provide funds. There is, therefore, the same inequality in levying school taxes as in the general taxes. It is less grievous inasmuch as no part is paid as a state tax, and each district is independent of any other. If a district does not make an adequate levy it alone suffers, although the schools of the sparsely settled districts are more seriously injured. To show the existing inequalities, several district levies for 1897 are here given: Rice County levies range from 4½ to 40 mills; Wabaunsee, 4 to 32; Wilson, 3 to 34½; Barber, 2 to 32½; Saline, 3 to 29; Reno, 5 to 30; Butler, 4 to 31; Washington, 4 to 30½;

Woodson, 1 to 20; Shawnee, 3 to 27. It is not strange that where such gross inequalities exist in the tax rate required, there is a general dissatisfaction among educators. There seems to be no unanimity of opinion, however, as to the most satisfactory substitute. Several State Superintendents have urged in their reports that the one mill levy by the state should be restored and that it would be better if this were made two mills or even three. The same criticism would apply to this as to the present method of raising the state revenue. It would not rest equally on the different portions of the state. Equalization of the school tax would be as difficult as the equalization of the state tax is at present. A wiser suggestion is that the state turn to other sources of revenue than the general property tax, and then devote a portion of its income to the aid of the public schools. Such a plan would be in harmony with the earlier criticism that there should be an entire separation of state from local taxation. With a distinct state tax on corporations, insurance companies and inheritances, there would probably result a surplus over the needs of the state sufficient to provide for a large part of the expense of the schools.

In addition there should be a county school tax. This has been tried in California and is the basis of one of the best supported and most progressive common school systems in the Union. In Kansas the county tax might take the shape of a levy of four or five mills on the dollar. This might be laid on all the property of the county (cities of the first and second class excepted) by the county commissioners, and be collected as are other taxes. It should then be the duty of the county superintendent to apportion the funds thus raised among the school districts in proportion to the number of teachers required to supply the schools of the district. A limit to the number of pupils under one teacher is desirable, and where two teachers are employed the superintendent might be authorized to apportion twice as much of the county fund. The same ratio of increase

should be made for each additional teacher required. Thus the districts of the county would have equal facilities of support. It certainly would be possible for the county superintendent then to bring about uniformity of school work, a thing which every good superintendent in Kansas is now vainly striving to obtain. To supplement the county tax, a district tax might be levied as at present to provide for the erection and maintenance of school buildings. But this district charge should be in the nature of a special tax, and should not be devoted to the general maintenance of the schools. In this plan provision has thus been made for three regular sources of school revenue:

1. The county tax, *i. e.* a levy on the property of the county by the county commissioners, distributed equally among the districts.

2. The district tax, *i. e.* a levy on the property of the district by the district meeting, as a supplementary tax or for special purposes.

3. The annual school fund distributed as at present, but increased by the state setting aside annually a portion of its receipts from the regular state tax. In such a scheme the county and district levies ought not to exceed twenty mills on the dollar.

[Bibliographical Note.—1. Statutes of Kansas, 1855-99. 2. Public Documents of Kansas, Topeka, 1881-99. 3. Auditor's Reports, Topeka, 1861-79. 4. Reports of Railroad Commissioners, Topeka, 1896-98. 5. Report of Superintendent of Insurance, Topeka, 1897-98. 6. Reports of Bureau of Labor, Topeka, 1897-99. 7. Kansas State Historical Collections, Vols. I-V, 1881-92. 8. Holloway, History of Kansas, Lafayette (Ind.), 1868. 9. Wilder, Annals of Kansas, Topeka, 1875. 10. Spring, Kansas (in Commonwealth Series), Boston, 1894. 11. Giles, Review of the Tax System of Kansas, Topeka, 1872. 12. Taylor, Tax Laws and Decisions, Topeka, 1884. 13. Blackmar, Taxation in Kansas, Lawrence, 1897. 14. Daniels, Problems of Taxation, Topeka, 1894. 15. Marshall, The Industrial Hand Book, Winfield, 1890. 16. Poore, Charters and Constitutions, Washington, 1877.]

IV.

TAXATION IN MISSISSIPPI[1]

By CHARLES HILLMAN BROUGH

Economic Characteristics

Fiscal conditions in Mississippi have always been in harmony with the external structure of the state and with the internal conditions of its economic life. From April 7, 1798, the date of its organization as a territory, to the present time, Mississippi has been a commonwealth of landed proprietors and its fiscal policy has been largely shaped by the dominant class. Although land has always been the primary source of revenue, it was but natural that in the absence of industrial centers, the owners of landed estates should shift a portion of the tax burden upon the artisan and the tradesman. This is the explanation of the license-privilege system, which in 1897 contributed $352,-113 to the state's revenue.

The type of land-tenure, as well as the predominance of landowners, shaped the state's fiscal policy. The owners of large plantations, requiring slave labor for their cultivation, sought to discourage free, hired labor by placing a higher capitation tax on free negroes than on either whites or slaves. Thus, we find in the laws of 1822 a provision to the effect that the sum of seventy-five cents should be assessed and collected on each slave; the sum of seventy-five cents on every white male between the ages of twenty-one and fifty years; and the sum of three dollars on each and every

[1] For assistance in gathering materials for this study my special thanks are due Hon. A. Q. May, State Treasurer; Col. J. L. Power, Secretary of State; and Mrs. Helen D. Bell, State Librarian.

"free male of Color"[1]—a discrimination which continued in kind and became more intense in degree until the abolition of slavery, the system in which it was conceived.

But an influence vastly more important than the character of the people and the peculiarity of their industrial economy has shaped Mississippi's system of taxation. This influence is the Mississippi River. Like the Nile in Egypt, the Mississippi enriches its valley by a deposit of sediment; but unlike the Nile, its inundations occur at irregular intervals, and frequently when the cotton crop is in full bloom and ready for harvest. These overflows have necessitated the construction of levees, and the construction, maintenance and repair of levees have necessitated the creation of separate units of taxation and the levy of special taxes within these units. Thus, the alluvial land of the state has been divided into two separate levee districts, viz.: the Yazoo-Mississippi Delta Levee District, and the Mississippi Levee District,[2] both under the supervision of levee boards, having powers of eminent domain, bond issue, and taxation, within limits prescribed by the state legislature.

The legislature is empowered by the constitution of the state to impose, for ordinary purposes of maintenance and repair, a uniform ad-valorem tax of not less than two nor more than five cents per acre upon every acre of land within these districts, and a privilege tax upon every railroad operating within the districts; and for construction purposes an ad-valorem tax on all cotton grown within the districts is also authorized.[3] In accordance with the latter provision, the revenue laws of 1892, amended in 1896, impose a tax of one-fifth of one cent per pound on all lint cotton annually grown within the Mississippi Levee District, and a tax of one-fifteenth of one cent per pound on all seed cotton grown and not ginned therein, the proceeds from

[1] Revised Code of Mississippi, p. 285.

[2] The Yazoo-Mississippi Levee District embraces the counties of Couhoma, Desoto and Tunica; the Mississippi Levee District, the counties of Bolivia, Issequena, Sharkey, Warren and Washington.

[3] Constitution of Mississippi, Art. 12, Sec. 236.

both taxes to be used in the payment of a six per cent. interest charge on a bonded indebtedness of $500,000 incurred for construction.[1] These types of levee taxes, resembling special assessments in so far as they are payments for special benefits conferred, have their origin in the peculiar geographical and industrial conditions of the state.

Many of the radical constitutional provisions relating to taxation in Mississippi are explained by the political and economic traditions of the state. The taxation of corporations in the same manner as individuals may be regarded as the application of the democratic, leveling idea to fiscal affairs. The appropriation of the proceeds from the state poll tax to the support of the common school system and the constitutional right given a school district to levy additional ad-valorem and poll taxes in aid of its schools, illustrate the importance attached to elementary education in Mississippi. The exemption of maimed and infirm Confederate soldiers from the payment of most of the privilege taxes, is virtually a supplement of the state's pension system.

General Finances

Economic conditions have had as much influence in molding the machinery as in determining the forms of taxation in Mississippi. The existence of large plantations has caused sparse settlement, and sparse settlement has made the county the fiscal unit of the state. Since 1799, when the law provided that the general court of quarter sessions should make an estimate of necessary county expenses,[2] the county has been the unit in the apportionment, assessment and collection of taxes in Mississippi. State taxes are, indeed, levied directly upon the persons and property of individuals by the state; but county officials are held responsible for their assessment and collection.

Taxes have not only increased largely in amount within the past decade of Mississippi's history, but they have also

[1] Mississippi Laws, 1892, p. 48; *ibid.*, 1896, p. 167.
[2] Mississippi Laws, 1799, p. 121.

assumed a place of relatively increasing importance in the budget of the state. For the fiscal year ending December 31, 1887, the total receipts into the state treasury were $1,069,568; of which taxes, state and privilege, supplied $808,062, or 75.5 per cent. of the whole. For the fiscal year ending September 30, 1897, the total receipts into the state treasury were $1,840,754, of which taxes, state and privilege, supplied $1,440,684 or 78 per cent. of the whole. This increase, both in the quantity of tax receipts and the proportion which they bear to total receipts, is due partly to an increase in the rate of taxation, and partly to an increase in the assessed valuation of property. In 1887 the rate of the state tax on property was 3.5 mills on the dollar; in 1898, 6.5 mills on the dollar. The average rate for the decade was 5.2 mills on the dollar. The amount of property assessed in 1887 was: of realty $90,270,135, of personalty $39,617,119, making a total of $129,887,254. The amount of property assessed in 1897 was: of realty, $113,210,931, of personalty, $44,994,791, making a total of $158,205,722, or an increased valuation within ten years of $28,318,468, or 21.3 per cent. The gross privilege-tax receipts only amounted to $352,113 in 1897, as compared with $392,415 in 1887; but this discrepancy is explained (1) by the repeal in 1890 of the option theretofore given railroads of paying either privilege or ad-valorem taxes, (2) by the recent reduction in privilege charges and (3) by the enactment within the past ten years of rigid prohibition laws.

There is no hazard in the prediction that the recent industrial progress of Mississippi, as revealed by the records of incorporation filed in the office of the Secretary of State[1] will greatly increase the revenues accruing from the privilege-license system in the future. This is especially true because the industrial progress of the state has not meant an extension either of the industrial domain or of municipal

[1] Between January and December, 1898, five railroads, eight banks, three manufacturing establishments, six telephone companies, five compresses, six oil-mills and four steamboat and packet companies, all subject to the payment of privilege taxes, have been incorporated.

functions. The enterprises incorporated have been private concerns, and as such are subject to the payment of a privilege tax.

But decidedly the most potent influence making for both an absolute and relative increase of taxation in the state's budget is the rigid enforcement of the back-tax collection law by the State Revenue Agent. This officer, fortified by the law authorizing the collection of back taxes from corporations and individuals escaping assessment[1] and by a recent decision of the Supreme Court of Mississippi against the constitutionality of charter exemptions, has instituted and is prosecuting to a successful conclusion suits involving approximately $1,500,000. Already several of the largest railroad companies in the state have offered to compromise the back-tax suits pending against them; and so sure are the people of the ultimate result that the disposition of the surplus revenue expected to accrue from back taxes has been made an issue in the gubernatorial campaign.

Pari passu with the increased importance of taxation in the state budget there has been a gradual displacement of the fee system by the privilege-license system. This is the result of the natural merger of the license fee into the license tax, and the conversion of the special benefit conferred into a special burden. This absorption of license fees by license taxes has so minimized the budgetary importance of fees that in 1897 they furnished only $2,110 out of a total revenue of $1,840,754.

A most gratifying effect following in the wake of the increase in the volume of taxation has been the shrinkage in state indebtedness. Within the last decade the indebtedness has been reduced from $1,345,226 to $1,105,780, this, too, in spite of constantly increasing appropriations for common schools, Confederate pensions, asylum construction and repair of penitentiary farms. Greater complexity in civil life has necessarily enhanced the cost of regulation;

[1] Mississippi Laws, pp. 29 *et seq.*

but it is a hopeful sign that out of this necessity there has sprung the theory that sinking funds should be substantial surpluses and not sinking debts.

A summary of the fiscal status of Mississippi at the close of the last fiscal year is here appended:

STATE BUDGET FOR FISCAL YEAR 1897.[1]

Name of Account.	Receipts.	Expenditures.
State Property Tax	$1,088,571.34	
State Privilege Tax	352,112.56	
State Poll Tax	250,057.00	
Insolvencies	466.99	
State Tax, Special Loan	85,000.00	
Fees	2,109.93	
Land Redemptions	604.86	
Two per cent. Fund	98.59	
Three per cent. Fund	147.88	
Chickasaw School Land Fund	1,868.78	
General Fund	13,057.45	
Supplement Peabody Fund	1,500.00	
A. & M. College U. S. Fund	23,000.00	$20,791.83
Certificates of Indebtedness	1,800.00	12.00
Land Sales of Escheated Property	84.92	
Rents on Escheated Property	195.65	
Sales of Reports, Laws and Code	1,241.10	
Collections by Revenue Agent	355.65	
Land-Office Receipts	18,470.60	
Miscellaneous	10.75	3,563.46
Common School Appropriation		923,500.00
Judiciary		90,884.30
Executive		30,144.69
Legislative		36,216.97
Pensions		73,311.00
Railroad Commission		6,902.15
Commissions for Assessing		50,394.26
University of Mississippi		37,643.00
Lunatic Asylum		82,576.66
Blind Institute		9,455.59
Deaf and Dumb Institute		32,021.27
East Mississippi Insane Asylum		43,085.46
A. & M. College		39,085.04
Industrial Institute and College		23,410.00
Alcorn University		18,960.09
Holly Springs State Normal School		2,000.00
Natchez City Hospital		8,750.01
Vicksburg City Hospital		12,309.97

[1] Compiled from Report of State Treasurer, 1897, pp. 29-30; corrected by Treasurer's books.

Name of Account.	Receipts.	Expenditures.
State Board of Health		14,894.35
Library Fund and Expenditures		1,096.13
Interest on Mississippi four per cent. Bonds,		4,120.00
Interest on Mississippi five per cent. Bonds,		19,325.00
Interest on Mississippi six per cent. Bonds,		29,976.00
Interest on Mississippi Special Warrants..		22.99
County Tax on Land Purchases		3,636.44
Public Printing		4,479.53
Express, Postage and Stationery		4,119.45
Supreme Court Reports		4,272.00
Canceled Land Patents		11,327.59
Light, Heat and Water Co		4,000.00
Jackson Fire Department		1,000.00
National Guard		2,095.75
Mansion Repairs		
Contingent Offices		576.00
Total	$1,840,754.05	$1,649,958.98
Balance		190,797.07

TOTAL INDEBTEDNESS OF THE STATE ON OCTOBER IST, 1897.[1]

PAYABLE DEBT.

Bonds, Series "B," January 1, 1878	$ 450.00	
Mississippi 6 per cent. Bonds, Act March 18, 1886, due January 1, 1907	500,000.00	
Interest on same due and not paid	416.00	
Mississippi 4 per cent. Bonds, Act March 7, 1888	103,000.00	
Interest on 8 per cent. Bonds past due and not paid	202.00	
Mississippi 5 per cent. Bonds, Act March 18, 1896, due January 1, 1906	400,000.00	
Interest on same past due and not paid	682.95	
Special Loan under Act May 15, 1897	85,000.00	
Certificate of Indebtedness	2,463.00	
Railroad Tax Distributions	929.22	
Outstanding Warrants	12,637.24	
		$1,105,780.41

NON-PAYABLE DEBT (INTEREST ALONE TO BE PAID).

Chickasaw School Fund	$856,300.81	
Seminary Fund, University of Mississippi	544,061.23	
Agricultural 5 per cent. Bonds, due January 1, 1896	212,150.00	
		$1,612,512.04
		$2,718,292.45

[1] Compiled from Amended Report of State Treasurer, 1897, p. 33.

Development of Taxation[1]

The history of fiscal legislation and development in Mississippi is comprised within five distinct periods. These periods, with rough chronological indices, are (1) Territorial, 1798-1817; (2) Ante-bellum Statehood, 1817-1861; (3) Confederate and Post-Confederate Governments, 1861-1867; (4) Reconstruction, 1867-1876; (5) Modern, 1876-1898.

1798-1817. By an Act of Congress, approved April 7, 1798, that tract of land which to-day includes the states of Alabama and Mississippi, was constituted one district and called the Mississippi Territory. Major Winthrop Sargent, a native of Massachusetts, was appointed governor, and three territorial judges were named. The governor and judges were empowered to frame a code for the territory on the basis of the statutes of other states. This code, known as "Sargent's Code," has been characterized as "directly at variance with all statute law in America, and utterly repugnant to any known system of jurisprudence derived from the common law of England."[2] Certainly this is true of that part of it "directing the manner in which *money* shall be *raised* and *levied* to defray the charges which may arise within the several counties."[3]

According to its provisions, the court of general quarter sessions in each county was authorized to make an estimate of the county's average annual expenditure, and this estimate was submitted to the governor and one or more of the territorial judges for approval. The amount approved was apportioned among the several towns in the county by commissioners biennially appointed by the court of common pleas. If the town numbered sixty or more citizens, two commissioners were appointed; if one hundred or more, three commissioners. These commissioners received the

[1] This portion of the essay appears in substantially the same form in the Publications of the Mississippi Historical Society, Vol II, pp. 113-124 inclusive. Published by the Society, Oxford, Mississippi, 1899.

[2] Lowry and McCardle, History of Mississippi, p. 71.

[3] For provisions see Mississippi Laws, 1799, pp. 121-123.

returns of taxables in each township, and assessed the property therein. It was specified that the commissioners should ascertain "the names of all freemen, inmates, hired male servants (being twenty-one years of age) whether profitable or chargeable to the employers" and obtain "a list of all lands not being the property of the United States or appropriated to public uses, the tenements, houses, cabbins or other buildings wherein people dwell and which are rented and afford an income to the owners, and all ferries, stores, shops, warehouses, mills, gins, keel or batteaux boats of the burthen of twenty barrels and upward producing a yearly income, and of the bound male servants and male slaves above the age of sixteen and not exceeding fifty; draught oxen, saddle and draught horses, cows penned or kept up and immediately productive to the owners; together with the stock of cattle, including sheep and swine intended for market and thereby productive of annual income and profit." Lands were to be assessed "in just proportion to their value." Those not having visible property to the amount of one hundred dollars could not be assessed more than $1, "save by a due proportion of labour in the opening and keeping in repair highways and public roads."

This enumeration viewed in the light of modern interpretation, meant a graduated income tax, for the support of town and county government. The valuation of real estate was determined not by its intrinsic worth or actual selling value, but by the annual income (profit) which on the average it was deemed likely to produce. Taxation was altogether local, there being no territorial levy as distinguished from the biennial county and township levies. Localization of fiscal activity, an income valuation, and the fact that visible specific property bore all the burden, formed the characteristics of Mississippi's primitive tax system.

The collection of taxes, at this time, was vested in the county sheriff, who was *ex officio* the county collector. The commissioners appointed by the county court as assessors were allowed $1.00 per day, and the sheriffs were

authorized to keep one per cent. of their collections before making their reports to the county treasurer.

This crude fiscal device of Sargent remained in effect without substantial modification until 1815. In that year a law was passed,[1] which provided for a district territorial tax and specified that county taxes should be levied upon the property and objects enumerated in the territorial schedule.[2] Henceforth there was to be commonwealth taxation as distinguished from purely local taxation.

The territorial schedule comprised a general list of ratable objects with fixed valuations. Land was divided into six classes, each class having three qualities. The principal bases of classification were proximity to commercial centers and distances from watercourses. Thus, Class I contained all lands lying within eight miles of Natchez, the first quality of which was rated at $12 per acre; the second, at $8.00 per acre; and the third, at $3.00 per acre. Class II contained all lands lying within fourteen miles of the Mississippi River, with valuations according to quality, ranging from $7 to $10 per acre. Class III contained all lands lying not less than fourteen nor more than twenty miles from the Mississippi, with valuations ranging from $5 to $2 per acre.

Lands, lots and buildings within any city, borough or town were subject to a uniform ad-valorem tax of two mills; bank stock and merchandise, to an ad-valorem tax of two and one-half mills. Capitation taxes of fifty and sixty-two and one-half cents, respectively, were levied on slaves and white males above the age of twenty-one. Slave-traders were taxed five dollars on each slave brought into the territory, and this primitive privilege-license system was further strengthened by a tax of one dollar and twenty-five cents on "pleasurable carriages." The assessors and collectors were appointed by the governor and not by the

[1] Digest of the Statutes of the Mississippi Territory, 1816, pp. 415-424.

[2] County taxes could not exceed one-half of the territorial tax.

county courts, as theretofore, a change probably due to the differentiation of commonwealth from county taxation.

1817-1861. For lack of a better term, the period from 1817, the date of Mississippi's admission into the Union, to the outbreak of the Civil War may be designated "the period of ante-bellum statehood." Such a division in fiscal history is justified by the fact that during this period the tax system of the state underwent substantial change. The increasing expenses of state administration, the accumulation of state indebtedness, marked differentiation in industry giving rise to numerous classes of wealth, and progress in democratic thought, all demanded an extension of the state's fiscal system. Personal property became as important an object of taxation as land. The personal property list was no longer limited to slaves, pleasure carriages and bank stock, but included gold and silver plate, pianos, weapons, watches, clocks, cattle in excess of twenty head, saddle and carriage horses, money loaned at interest, merchants' and brokers' capital.

The taxation of personal property was supplemented by the license-privilege system with charges partly rated and partly specific. Thus in 1857 auctioneers and pedlers were taxed three per cent. on the amount of their sales; saloonkeepers, one-fourth of one per cent. on all sales of vinous and spirituous liquors by the gallon; traders in slaves, horses and mules, three per cent. on the amount of their sales; keepers of ferries, toll bridges and turnpikes, one-fourth of one per cent. on all receipts; circuses, $25 per each day's performance; nine-pin alleys, theaters or places for theatrical performances, $25 each.[1] Even the poll tax was widened in its application so as to include free negro males between the ages of twenty-one and fifty years.

Simultaneously with this external expansion the tax system underwent internal change. Land classification was abolished. Annual income was rejected as a device for the valuation of land, and a method substituted which is still

[1] Revised Code of Mississippi, 1857, pp. 72-73.

in vogue, viz., assessment according to actual value, sworn to by the owner or person in charge. In the process of assessment account was to be taken of improvements, proximity to navigation, towns, cities, villages or roads, and any other circumstance that might tend to enhance value.

The distinction between state and county taxes was preserved, but it was not the same as that between territorial and county taxes. County police boards were now authorized to levy a variable per centum rate on the amount of the assessment of the state tax and also a special tax for the erection and repair of county buildings. Under the territorial regime, county taxes could never exceed half the territorial tax; in the state period, county taxes frequently exceeded the state tax.

This period was also marked by a radical change in the machinery of assessment and collection. During the territorial period, the assessing and collecting officers were either appointed by the county or by the territorial governor; during the period of ante-bellum statehood, they were chosen directly by the people.[1] The county sheriff was *ex officio* the county collector, but the assessor was a separate officer with distinct functions. Both were biennially elected, and the compensation of each was fixed at five per cent. on the amount of the state tax assessed and collected. This per centum remuneration could not exceed a fixed sum; the assessor's maximum being $500 and the collector's $3,000 per annum. The fiscal machinery thus set in motion differs little from that in use at the present time.

Although the ante-bellum period witnessed the establishment of some of the main features of the modern system of state and local taxation in Mississippi, it cannot be designated as transitional in the sense Professor Ely uses the term transitional.[2] There was no change from the taxation

[1] Revised Code of Mississippi, 1857, pp. 70-72.

[2] Ely ("Taxation in American States and Cities," p. 131) designates the period from 1796 to the outbreak of our Civil War as transitional.

of specific kinds of property at varying rates to the taxation of the collective mass of property at one uniform rate. More kinds of property were taxed, but there was no disposition to group them under a common category at a uniform rate. The objects taxed were as specific, and the rates imposed were as variable as ever. The period was characterized by an extension of the tax system, but not by its simplification.

1861-1867. War demands extraordinary revenue and especially was this true of our Civil War. It is not strange that the Constitutional Convention of 1861, in which Mississippi's allegiance to the Union was formally renounced, supplemented the ordinance of secession by "an Ordinance to Raise Means for the Defence of the State."[1] This revenue ordinance provided for the collection from each *taxpayer* of an additional special state tax of fifty per cent. on the regular state tax and also for a tax from every *inhabitant* of three-tenths per cent. upon all money owned or controlled by such inhabitant, the moneys so collected to constitute a Military Fund. In 1863, it was further enacted that an additional special tax of fifty per cent. on the regular State tax be levied, to be known as the Military Relief Tax, the proceeds to be used for the relief of the destitute families of Confederate soldiers.

In 1865, in order better to provide for the families of soldiers, a direct tax in kind was imposed on the gross amount of all corn, in excess of one hundred bushels; of all wheat, in excess of twenty-five bushels; and of all bacon, in excess of one hundred pounds; on the tolls from all grain mills; on the gross profits of leather, whether manufactured for sale or received on shares as commission by tanneries; and on all woolen and cotton fabrics manufactured for sale.[2]

[1] For provisions, see "Proceedings of the Constitutional Convention," 1861, pp. 12-15. (Only one copy of this valuable document is in existence, this being the property of the Secretary of State of Mississippi).

[2] Mississippi Laws, February and March, 1865, pp. 3-10.

For the benefit of the County Indigent Fund,[1] the boards of police of the several counties were also empowered to levy a tax in kind of one-half of one per cent. on all corn, wheat and bacon grown and produced in the state.

The exigencies of war and the depreciation of the Confederate treasury notes, in which taxes were paid, necessitated not only the levy of special taxes but also an extension of the existing taxes. Notable among the additions were taxes of five cents per pound on all seed cotton over one bale of five hundred pounds lint, raised by a single hand; of two per cent. on the gross profits of iron foundries, machine shops, dealers in grain, provisions, etc.; of fifty per cent. on the wages of mechanics in excess of seventy-five per cent. profit above the actual cost of labor and material; of twenty cents on every $100 of railroad stock paying three per cent. per annum.[2]

Before the war, the state had encouraged railroad enterprise by tax exemption and had even gone so far as to levy special railroad taxes in the several counties in payment for stock subscriptions to these enterprises. During the war, financial expediency made necessary the withdrawal of all premiums upon industrial progress, and the husbanding of the state's resources for the conduct of military operations. Emergency taxation was supplemented as a fiscal device by the use of Confederate currency, depreciated cotton money and Mississippi treasury notes. This extreme economic tension was only relaxed after the last troops of the Confederacy had surrendered.

Upon the downfall of the Confederacy in 1865, the Constitutional Convention called by Governor Sharkey organized Mississippi as a state government. The financial problem confronting the post-confederate government was

[1] "Indigent beneficiaries" were divided into three classes, viz.: (a) those entirely dependent, (b) those deficient in breadstuffs, (c) those deficient in bacon. No beneficiary could receive more than six bushels of corn, one bushel of wheat and fifty pounds of bacon during the year.

[2] Mississippi Laws, 1862-63, pp. 153-155.

as difficult as that which confronted the Confederacy itself. Land was useless as an object of taxation, because it had no market value. Industries were paralyzed and needed bonuses rather than increased burdens. The debt contracted during the war had not been repudiated, and there was a new state government to support. How was the difficulty to be solved?

The legislatures of 1865, 1866, and 1867 acted in a sensible and direct way in dealing with the situation. A direct tax of one dollar per bale was levied on all cotton brought to market and sold; an inheritance tax of one per cent. on the gross amount of all collateral inheritance; a tax of three-tenths of one per cent. on annual rents and tenements. Privilege taxes were exacted from the larger corporations.[1]

This selection of taxable objects proved most fortunate, the cotton tax alone yielding sufficient revenue to support the whole state administration. The state indebtedness was scaled and Mississippi recovered rapidly from financial despondency.

1867-1876. The rule of "Reconstruction and Radicalism" fastened upon the state in 1867 meant signal retrogression in fiscal policy. This reign of ignorance and inefficiency was formally ushered in by a motley assemblage known as the "black-and-tan convention," so-called from the negroes and carpet-baggers who composed it. The special taxes levied to cover the profligacy and extravagance of this convention, whose expenses for a period of less than five months aggregated nearly a quarter of a million dollars, foreshadowed the future. Cotton, grist mills, sawmills, grocery, drug, and provision stores, ferry and wharf boats, railroad and steamboat companies, banks and hotels were all subjected to taxation. Even the inviolability of the press was not respected, and sums ranging from $20 to $50 were exacted from each daily, tri-weekly and weekly newspaper published in the state. The plunderers modestly

[1] Mississippi Laws, 1866-1867, pp. 412-414. A notable instance is the tax of $2000 *per annum* imposed upon express companies.

concluded their outrageous schedule with the provision "that a special tax of fifty per cent. on the State tax be levied in addition to the State tax now assessed upon real and personal property."[1]

The rejection of the Constitution framed by this "black-and-tan convention" and the conservative administration of Governors Alcorn and Powers, both property-owners and tax-payers in the state, served in a measure to check fiscal excesses. However, this improvement was but temporary. In 1869 the state levy was only one mill on the dollar of the assessed value of land; in 1870, five mills; in 1871, four mills; in 1872, eight and one-half mills; in 1873, twelve and one-half mills. This was only the state tax. In many counties a county tax of one hundred per cent. on the state tax was added, besides a special tax in some counties to pay the interest on their bonded debts, and a special tax in the incorporated towns of from five to ten mills on the dollar for town purposes. The total tax paid by citizens was two and eight-tenths per cent. outside of the cities, and from three and one-half to four per cent. in the cities.[2]

With the election and inauguration of Adelbert Ames as governor in 1874, the spirit of plunder animating the aliens and negroes burst forth with a fresh fury. The tax on land was increased to fourteen mills, a rate which virtually amounted to confiscation. Cotton was taxed $10 per bale and the proceeds invested in the Freedmen's Savings Bank. The poll was increased from two dollars to six dollars per capita, and the responsibility for the payment of the negro's poll was saddled on his white employer. This fiscal comedy reached its climax in the imposition of a one per cent. tax

[1] Mississippi Laws, 1868, pp. 215-220. This convention dropped the provision found in the Constitution of 1832 restricting the origination of revenue bills to the lower house. The Constitution of 1890 expressly declares that all bills may originate in either house and be amended and rejected in the other.

[2] Lowry and McCardle, History of Mississippi, p. 230. See also Barksdale, Reconstruction in Mississippi (Noted Men of the Solid South, p. 339).

on all amounts expended by the citizens of the state in travel.[1]

The people simply could not pay these taxes, and over 6,400,000 acres of land were forfeited. Driven to poverty by this confiscation, the tax-payers, in convention assembled, presented to the legislature a most respectful prayer for relief. The legislature treated the petition with contempt, an action which resulted in the organization of tax-payers' leagues over the state and the speedy overthrow of the carpet-bag government. This struggle between tax-payers and tax-layers in Mississippi is but another illustration of the truth of the saying of Edmund Burke that "from the earliest times the great battles for freedom have been fought out on the question of taxation."

But the price of victory was dear and the penalty paid for experience was great. In addition to an interest-bearing debt of $984,200, the carpet-baggers left outstanding on January 1, 1876, non-interest paying auditor's warrants amounting to $414,958. During the last six years of their short regime, they spent $8,501,438, nominally on account of the expenses of state government, an average of $1,484,-699 per annum.[2] They collected nearly a million dollars of what is known as the "Common School Fund," and spent it all, except $57,000, in United States bonds left in the treasury to the credit of that fund. This money was not spent on common schools, the purpose for which it was collected, but was misappropriated in ways never accounted for, and a debt against the state on account of that fund was left on January 1, 1876, amounting to $830,378. This, too, in spite of the fact that the average rates of state and county taxation during the six years in question were 8.87½ and 12.49⅔ mills respectively, making a combined average of $21.37⅙ on $1,000.

1876-1898. Indebtedness was thus the legacy which the modern period received from the period of reconstruction

[1] Mississippi Laws, 1874, p. 46.
[2] Reports of State Auditor and Treasurer, 1870-1876.

and radicalism. Although burdened with this incubus and threatened with increasing expenditures for educational and eleemosynary institutions, the modern period in Mississippi's fiscal history has been characterized by a decrease in both state and county tax rates and by a proportionate reduction in the amount and interest rates of the state indebtedness.

The first year of the new period, 1876, gave earnest of fiscal reforms. State taxes were reduced from nine and one-half mills on the dollar to two and one-half mills. The taxing power of county boards of supervisors was restricted by the passage of a law prohibiting such board from levying taxes for county purposes to an amount which, added to the state tax, would exceed sixteen and one-half mills on the dollar, except for indispensable purposes.[1] Unnecessary officials were dismissed, the common school system improved, sinecures abolished and salaries reduced.

This policy of economy in state administration has yielded substantial results. The average rate of state taxation for the past twenty-two years is 4.66 mills, as compared with 8.87½ mills for the six years preceding The average rate of county taxation for the same period is 11.1 mills as compared with 12.49½ mills for the six years preceding. Combining averages, we find a saving of 5.60½ mills on the dollar, or $5.60½ on $1,000.

Reduction in tax rates has meant a reversal of the policy of confiscation. Of the 6,400,000 acres of land forfeited for non-payment during reconstruction rule, all but 250,000 acres have been redeemed. Property valuation has largely increased, the value of real and personal property in the state to-day being estimated at $156,432,328. Conservative capital is seeking investment in all branches of industrial enterprise and economic progress is following in the wake of fiscal reform.

Although the total funded debt of the state has increased from $830,750 in amount and $45,507 in interest charges,

[1] Mississippi Laws, 1876, p. 94.

in 1876, to $1,105,780 in amount and $53,421 in interest charges, in 1897, this increase is not without warrant. The obligations, amounting to $876,257 in principal and interest, handed down from reconstruction times have all been paid. During the past twenty-two years $6,755,708 have been appropriated for and actually paid to common schools, as opposed to $1,323,766 appropriated and $327,742 paid during the six years preceding 1876. Higher education has been liberally supported, eleemosynary institutions established and equipped, and the Confederate pension fund, largely increased.

Yet these extraordinary expenditures have only caused an addition of $282,944 to the state's payable debt. This fact alone gives character to the present administration of Mississippi's finances and gives promise of a wise use of the commonwealth's taxing power in the future.

Present Tax System

The principal taxes now employed in Mississippi for commonwealth purposes are, in the order of their importance, the general property, the privilege, and the poll taxes. The tax on corporations which is found in many American commonwealths as a distinct tax, has not been differentiated in Mississippi from the general property and privilege-license taxes.[1] The tax receipts of the state for the fiscal year ending September 30, 1897, are shown in the appended table:[2]

	Assessed Valuation.	Receipts.
General Property Tax: Realty	$113,210,931	$735,871.05
General Property Tax: Personalty	44,994,791	292,466.14
General Property Tax: Railroad, Telegraph, Express and Sleeping-Car Companies	24,682,876	160,438.70
State Privilege Tax		352,112.56
Poll Tax		529,694.00
Total	$182,888,598	$2,070,592.45

[1] The constitution of Mississippi requires that the property of corporations be taxed in the same manner as that of individuals, which means the assessment of real and personal property by local officials. (See Constitution of Mississippi, Art. 7, Sec. 181.)

[2] Compiled from Report of State Auditor, 1897, p. 347, and from books of State Treasurer.

General Property Tax

From the admission of Mississippi into the Union in 1817, through the successive revisions of the state constitution in 1832, 1869, and 1890, the general property tax has remained *de jure* supreme as a fiscal expedient. During this period the tax has suffered few variations from its original form. The tax on land has always been rated rather than specific; while the tax on personalty has been rated, in so far as personalty has been subject to a general property tax, and specific in so far as personalty has been subject to a privilege tax. Until 1846, the tax on land was a percentage charge imposed according to quality. In that year land classification was abolished.

Classification according to quality was again adopted as a basis of assessment under the provisions of the famous "Madison Law," but was abandoned in 1890 when this law was declared unconstitutional.[1] The state levy has varied from two mills in 1822 to six and one-half mills in 1898, attaining a minimum of one mill in 1869 and a maximum of 14 mills in 1874. The latter year, it will be remembered, marked the apogee of financial mismanagement during the reconstruction era.

Before 1876, the rate was not uniform on those articles of personal property, now listed in the personal property blanks and subject to the regular state and county property tax. Of recent years, however, a tendency toward uniformity is perceptible and to-day the levy on all personal property for state and county purposes is the same as that on real property.

[1] The "Madison Law," so called from the name of its author, divided the lands of the state into five classes of eight qualities each. The classes were grouped according to counties, the object being "to equalize assessments in the different counties of the state." In 1890 the Supreme Court of the state held that grouping lands on this basis was in violation of section 112 of the constitution, declaring that taxation shall be equal and uniform throughout the state. For fuller provisions of the Madison Law, see Mississippi Laws, 1888, pp. 24-27.

Profiting from the excesses of the reconstruction period, the legislature not only fixes the state levy but also imposes a limit beyond which the county board of supervisors cannot go for any purpose. The revenue laws of 1898 fix this limit at 15 mills for state, county and school purposes with the proviso that "counties having an outstanding indebtedness may levy an additional tax for paying interest thereon, and a sinking fund to pay the principal if necessary, but the whole amount levied shall not exceed eighteen mills."[1]

Although the extent of the levy is thus rigidly prescribed, this limitation does not in any wise lessen the importance of the general property tax as a fiscal device. School districts, whether they be counties or municipalities, are dependent on the general property tax for the continuance of their schools beyond the term of four months guaranteed by state appropriation out of the poll tax receipts.[2] Levee districts are protected from overflow by a special ad valorem property tax of five mills, supplemented by a tax of one-fifth of one cent per pound on all lint cotton and one-fifteenth of one cent per pound on all seed cotton grown within the district.[3] In short, every unit of political and administrative organization in the state has adopted the general property tax as necessary to its institutional life. The machinery of the assessment, imposition and collection of the general property tax in Mississippi is complex and necessitates detailed treatment.

Exemptions. All taxable property brought into the state before the first of February is liable to the payment of taxes for the current year. "Taxable property" is a term

[1] Mississippi Laws, 1898, p. 7.

[2] The revenues accruing from the poll tax are used for this appropriation; but, when these are not sufficient, the deficiency is supplied by the general property tax. In municipalities, this special levy cannot exceed three mills without the consent of a majority of the taxpayers. (See Annotated Code of Mississippi, 1890, ch. 119, Sec. 4014.)

[3] Revenue Laws of Mississippi, 1896-97-98, p. 45.

of relatively limited content in Mississippi because of the long list of exemptions.[1] This list includes:

1. Public property, real or personal.

2. Private property, real or personal, belonging to any religious or charitable society or incorporated educational institution, when not used for profit.

3. Property held and occupied by the trustees of schools; also, township school lands used for the benefit of public schools.

4. Farm products raised in the state, when in the hands of the producers; farming implements, and all property of agricultural and mechanical associations and fairs held for the promotion of agricultural objects.

5. Wearing apparel, not including jewelry or watches; provisions on hand necessary for family consumption; household furniture, not to exceed $250 in value; libraries and works of art not kept or offered for sale as merchandise.

6. Poultry, two cows and calves, ten head of sheep or goats, ten head of hogs, and all colts foaled in the state under three years old.

7. Permanent factories established in the state before the first of January are exempt for a period of ten years.[2]

Assessment. The law provides that every person shall be assessed in the county and municipality where he resides at the time of assessment.[3] Real property is assessed in the county in which it is situated, as is personal property having a situs distinct from the person of the owner.[4] Banks and other corporations are assessed in the county in which the principal office is located; if there be no principal office, then in the county or counties in which the business is transacted. Money loaned at interest or employed in dis-

[1] Annotated Code of Mississippi, ch. 116, Sec. 3744.

[2] Until 1894, factories belonging to a trust, combine or pool did not enjoy this exemption. In that year the discrimination was withdrawn. (See Mississippi Laws, 1894, p. 26.)

[3] For provisions relating to assessment of taxes, see Annotated Code of Mississippi, 1890, ch. 116, Secs. 3744-3801.

[4] Colbert *vs.* Leake Co., 60 Mississippi, 142.

count is taxable in the county where the capitalist resides or has a place of business, or is temporarily located. But if a loan be made to a person in the state by a non-resident, who has no place of business, location or agent in the state, the courts have decided that this is not taxable in the state, notwithstanding negotiations for the loan be made by persons in the state and the loan be secured by property in the state.[1]

On the first day of February of each year the state auditor is required to furnish the clerk of the board of supervisors of each county with three copies of assessment rolls, and four books each of land and personal rolls to counties having two judicial districts. One of the personal assessment rolls and four books each of land and personal rolls, are delivered to the assessor; the others are kept by the clerk of the board of supervisors to be used in making copies. Personal property and polls are assessed between the first day of February and the first Monday in June of each year; real property, between the same dates every four years.

Cash value at the time of assessment usually fixes the taxable basis of property in Mississippi. Thus, capital stock is the basis adopted in the assessment of corporations. Banks and railroads furnish notable exceptions to this rule.

Banks. This system of taxing banks may be summed up as the separate taxation of real estate plus the taxation of the shares in the hands of the individuals, whose tax is generally paid by the bank and then withheld from the dividends. Formerly there was a distinction made between banks that were corporations or joint stock companies, and those that were not. In the one instance, capital stock was taxed; in the other, "the sum of all undivided profits or surplus or accumulations of any sort constituting a part of the assets of the bank." This distinction was abolished by an act approved February 11, 1898.[2]

[1] State *vs.* Smith, 68 Mississippi, 79.
[2] Mississippi Laws, 1898, p. 8.

Railroads. Railway companies are required to list their real and personal property, capital stock, gross earnings, equipment, investments, cash assets and the value of their franchise, all of which must be taken into account by the State Railroad Commission[1] in assessing railroads. It is provided that the assessment rolls distinguish between the railroad property in counties, cities, towns, villages and levee districts, so that the tax may be justly apportioned between the state and its local units. We shall see later that this railroad property tax is supplemented by a railroad privilege tax.

Land is assessed according to its actual value as estimated by the owner or person having it in charge. The law provides that improvements, proximity to navigation and any other circumstance that tends to enhance the value of the land be taken into consideration in making up the assessment roll, which, in addition to the lands of private individuals and corporations is also to include lands sold for taxes and school lands when leased. The assessment roll must be completed and delivered to the clerk of the county board of supervisors on or before the first Monday of July, and must remain on file subject to objection for at least two weeks.

Equalization. On the first Monday of August the board of supervisors sits as a county board of equalization. Although this board has no power, under the state constitution to raise or reduce, *in solido*, the assessment of a particular class of lands in a county;[2] it can change the assessment in cases of over-valuation due to clerical errors or to change of ownership after assessment, and it can take account of increase of value due to the erection of buildings or the supply of improvements.

Collection. On receipt of the assessment rolls, the sheriff begins the collection of taxes.[3] The county tax is added to

[1] An elective commission, composed of three members, having general powers of supervision over common carriers.

[2] Anderson *vs.* Ingersoll, 62 Mississippi, 73.

[3] For provisions relating to collection of taxes, cf. Annotated Code of Mississippi, 1890, ch. 116, Secs. 3801-3851.

the state tax and collected with it. Both the assessment and collection of taxes are vested in the collector, where land liable to taxation has been left unassessed by the assessor, or where it has become liable to taxation since the last assessment. Again, certain taxes may be paid directly to the state auditor, especially by persons having taxable property in counties where they do not reside.

After January 15 the collector is authorized to advertise for sale all land on which taxes are unpaid, the sale to occur on the first Monday of the March following. If the taxes remain unpaid at that time, the land is sold to the highest bidder. Property owned by a person in one county is liable for delinquent taxes in another, and the collector is authorized to collect such taxes, with five per cent. interest thereon. Land may be redeemed within two years by the payment of the total amount for which it was sold, together with all costs, twenty-five per cent. damages upon the amount of all state and county taxes that may have been imposed on the land since the sale, and five per cent. of the redemption money. If sufficient real and personal property cannot be found to cover delinquent taxes, the debts due the delinquent may be sold by the collector, subject to redemption six months from the date of sale.

Each county collector is required to make monthly settlements with the state auditor, and final settlement with the auditor between the first and fifteenth of September of each fiscal year. As compensation, the collector receives from the state five per cent. on the state taxes, exclusive of the poll tax, collected by him and three per cent. on the poll taxes; from the county, five per cent. on the first ten thousand dollars or less, and three per cent. in excess of that amount. The assessor receives five per cent. of the amount of the state tax on his assessment roll, the same to be not less than $300 nor more than $3000.

Criticism. With this description of the general property tax as it exists in Mississippi, we are in a position for objective criticism. The tax is strongly intrenched in the

traditions of the people, yet it has manifest weaknesses. In the rural and timbered districts of the state the general property tax is virtually a real property tax. Personalty is concealed and land bears the brunt of the burden. Speculators in warrants escape unscathed, while investors in timbered lands pay a heavy penalty for their confidence in the state's future. This tendency of personalty to evade taxation is not as pronounced in Mississippi as in other American commonwealths; indeed, the opposite tendency of a proportionate decline in real property values is rather to be noted. Thus in 1897 the valuation of personalty was $173,394 greater than 1896, while the valuation of realty had remained stationary. Yet evasions of personalty are apparent here as elsewhere, and farmers owning depreciating land feel keenly the incidence of the shifted burden. For this reason, it is the belief of the writer that the general property tax in Mississippi should be supplemented by a graduated income tax.

That provision in the state constitution which makes corporate property subject to the payment of the general property tax does not work well in actual practice. Railroad, telegraph, sleeping-car and express companies, which pay a state privilege tax in addition to the state and county property tax, naturally complain of double taxation and seek to evade the payment of the property tax by securing charter exemptions.[1] If successful, the evasion plainly

[1] Section 13 of Article XII of the constitution of 1869 provides that "the property of all corporations for pecuniary profit shall be subject to taxation the same as that of individuals." Section 21 of Article XII provides for a uniform ad valorem tax on all property.

Soon after the adoption of the constitution of 1869 there was considerable railroad activity in Mississippi, and the new corporations organizing in the state employed skilled legal talent to secure for them the best advantages consistent with the provisions of the organic law. One of the first companies seeking a charter under this constitution was the Mobile and Ohio North Western Railway, and one of the most complex and skillful instruments ever drawn is the charter of this company granted by the legislature of 1870. Under the terms of the now famous "section 21" of this charter, all taxes to which the said company should be "subject" for a

means a loss of revenue to the state that could be saved by the imposition of a more equitable corporation tax; if unsuccessful, unwilling payment produces contagious antipathy and retards the state's industrial growth. The value of property, even when modified by other criteria, is a poor basis of corporate assessment, for when used as such it discourages improvements and is weakened by local inequalities. To the adoption of this false criterion, and to double taxation must be charged the fact that the railroad mileage of Mississippi has only increased 293 miles within the last eight years.

The withdrawal of corporate property from the scope of the general property tax is imperative. That done, the way

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period of thirty years, were "appropriated and set apart," to be applied to the payment of the debts and liabilities of the company, incurred in the construction of the road. It was provided, however, that whenever the profits of the company enabled it to pay an annual dividend of eight per cent. upon its capital stock, over and above the payment of its debts and liabilities, then the appropriation of the taxes was to cease and the taxes were to be paid.

This section twenty-one was afterward adopted by all other corporations entering the state, and was copied into nearly all the charters thereafter granted by the legislature.

But a more dangerous mode of evasion than "section 21" of the charter mentioned, has been created by the interpretation of section 13 of the Constitution of 1869 given by the Supreme Court of Mississippi in 1878. The court took the plain and simple language of this section and announced that the framers of the constitution meant that the property of all corporations for pecuniary profit should be "subject" to taxation, the same as individuals; instead of the obvious meaning that such corporations should be "subjected" to the same taxation as individuals. On this word the court held that the legislature had the right to "subject such subjects" to taxation or not, as it chose. This practically annihilated section 13 and left the legislature free to grant exemptions, *ad libitum*.

It has not been difficult for railroads to secure charters granting exemption from the property tax so long as the annual dividends are below 8 per cent., and as it is an easy matter to refrain from paying 8 per cent. dividends, the railroads of Mississippi have practically escaped the ordinary property tax. In June, 1898, however, the Supreme Court denied the right of the legislature to grant specific exemptions, and declared that only temporary immunity from taxation can be granted, by way of encouraging home industry. Upon the strength of this decision, the State Revenue Agent is prosecuting the well-known back-tax suits.

will be clear for either the creation of a separate corporation tax or the use of the privilege-license system in lieu thereof. Either method would remedy the evil, and, if properly adjusted, insure a more equitable basis of assessment and a larger revenue.

Again, the non-existence of a state board of equalization has led to inequalities in the assessment of the general property tax in different counties. Very few counties in the state have a common standard, and where property overlaps contiguous counties the result may be described in the phrase which Mr. Goschen has employed in another connection: "a chaos as regards authorities, a chaos as regards rates and a worse chaos than all as regards areas."

Some degree of uniformity is observed in the assessment of different individuals within the same county, by reason of the fact that the county board of supervisors is constituted a county board of equalization. However, it is questionable whether the appointment of five representative taxpayers from different parts of the county to serve as county board of equalization—a method in vogue prior to 1884—would not secure a greater degree of uniformity than the present device. Certainly it is true that variety in rates and in assessments in different districts is as great an evil as unequal assessment within the same district. For the betterment of the general property tax in this particular the writer would suggest the establishment of a state board of equalization with powers analogous to those possessed by the Railroad Commission.

There is also a degree of rigidity and complexity in the machinery of the general property tax in Mississippi which is always annoying and sometimes expensive. A typical illustration of the annoyance caused by the rigidity of the system is seen in that provision which requires the county collectors to make their final settlements with the auditor "on or within ten days after the first day of September."[1] The auditor informs the writer that it is a physical impos-

[1] Annotated Code of Mississippi, 1890, Sec. 3840.

sibility for him to settle with seventy-five collectors within ten days. According to law, the tax-collections on both the realty and personalty rolls must be in by the first Monday of August, and the fiscal year closes September the thirtieth. This leaves a margin of two months in which settlements might be made. An obvious improvement would be to give the auditor and sheriffs at least half this time to make their settlements.

A notable illustration of the expensive complexity of the system occurs in connection with the annual state appropriation for common schools. The poll tax receipts, which are diverted exclusively to the common school fund, never cover this appropriation. Thus, in 1897, the amount appropriated for common schools was $923,500, while the poll tax receipts for the same year amounted to $250,257. This deficiency, as we have seen, is supplied by the state tax on the property. The Code of 1890 provides that "the county and municipal treasurers shall report to the auditor of public accounts the amount of state poll tax collected, which amount shall be a credit on the sum due the county or separate school districts from the (school) distribution fund."[1] But all state ad valorem taxes, for whatever purpose used, must be forwarded by the county collector to the state auditor to be apportioned by that official among the counties.[2] This involves delay and expense items of no slight moment in connection with the distribution of the school fund. It would seem to be perfectly practical to treat that part of the general property tax, diverted for school and other specific purposes, in the same way as the poll tax, simply requiring the county collectors to make a report of the amount collected by them and held for distribution. This would mean a saving in expressage and a gain in simplicity.

The complexity characterizing the machinery of the general property tax in Mississippi appears even in the laws

[1] Annotated Code of Mississippi, ch. 116, Sec. 3745.
[2] Idem., Sec. 3850.

fixing the compensation of the tax officials. Recently a test case was argued before the State Supreme Court involving the construction of the act which fixes the compensation of an assessor at five per cent. of the amount of the state tax on his assessment roll, the same not to be less than $300 nor more than $1000.[1] The Attorney General contended that the assessor was entitled to five per cent. on the state tax, whether on the personal assessment roll or on both the real and personal rolls. The argument of the assessor's attorney was that each roll was separate and distinct from the other, and that the minimum of $300 was due on the realty roll every fourth year, even though both compensations should together be more than the maximum. Variance in the construction of law is only a typical illustration of the confusion resulting from a maximum and minimum fee-compensation system. The writer believes that this confusion might be avoided by substituting for the maximum and minimum fee system a scale of graduated salaries.

With these practical defects demanding correction, the general property tax in Mississippi seems to invite sweeping reform. Yet its absolute abolition in a state, where incomes are small and property holdings large, is out of the question. An income tax might supplement it, but could not supplant it. Corporate property might well be withdrawn from its inclusion, but individual property could be reached in no other way.

Privilege Taxes

Mississippi, in accord with the general practice of southern commonwealths, imposes a privilege-license tax on well-nigh every occupation. An examination of the present revenue laws, reveals the fact that there are one hundred and nineteen occupations to which licenses must be issued as a condition precedent to the transaction of business.[2]

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[1] Mississippi Laws, 1884, p. 17; also Annotated Code, 1890, Sec. 2017.

[2] Mississippi Laws, 1898, pp. 8-29.

The importance of the privilege-license system in Mississippi is conspicuous. From the time when the dominant landed proprietors of an ante-bellum regime demanded the taxation of other objects than their farms and estates, to the present day, when the need of revenue and a sentiment in behalf of local protection sustains what would seem to be a fiscal anachronism, the privilege-license system has been an important source of revenue.

Of recent years the number of occupations subject to the payment of licenses has multiplied and the charges have increased. In the early laws we found the privilege schedule limited to auction sales, billiard tables, bowie-knives, nine-pin alleys, pedlers, race horses or tracks, taverns, groceries and theaters. An examination of this list shows that the articles specified are principally luxuries, the restricted consumption of which was deemed desirable.

In striking contrast to this limited use of the privilege system is that implied in the revenue laws of 1898. Here the predominance of the idea of revenue over regulation permits of no discrimination between necessary goods and luxuries, and between useful and useless occupations. Railroads and lawyers are placed on the same footing with merry-go-rounds and dealers in hopfenweis. Bed-spring dealers are as important in the eye of the law as boarding-house keepers.

This enlargement of the scope of the privilege-license system indicates a gradual movement away from sole dependence upon the general property tax, a movement accelerated by the practical defects of the latter and the need of applying a fiscal differential to the modern complex industrial organization. The rigidity of the state constitution has necessitated the taxation of corporations in the form of a privilege-license tax. That the taxation of corporations has taken definite form in the privilege-license system may be seen from the fact that railroad, express, sleeping car, telephone, telegraph and insurance companies are subject to the imposition of a privilege tax on those elements supposed to represent their taxable capacity.

Accident-insurance companies pay $250 per annum; life insurance companies a graduated tax of $250 for the first year, $500 the second, $750 the third and $1000 for the fourth year and thereafter. Insurance agents are also subject to a privilege tax, rated according to the size of the city or town where their business is transacted. Thus, an insurance agent doing business in a city of 5000 or more inhabitants, pays $40; in a city of more than 2000 and less than 5000 inhabitants, $25; in a town or village of less than 2000 inhabitants, $20; other insurance agents, $10.

Express companies pay a privilege tax of $500, together with a tax of one dollar for each mile of railroad along which they operate, and a local property tax according to charter exemption and gross earnings. Railroads are divided into four classes according to gross earnings.[1] The first class pays $20 per mile; the second $15; the third $10, and narrow gauge $2. An interesting provision was inserted in the laws of 1898, whereby railroads claiming exemption from state supervision under maximum and minimum provisions in their charter are compelled to pay an additional privilege tax of $10.[2] Sleeping and palace-car companies pay $200 each. Telegraph companies pay $250; or if the line is less than one thousand miles, twenty-five cents per mile. Telephone exchanges are graded according to the number of subscribers. Thus, an exchange with twenty subscribers or less pays five dollars, while one with more than one hundred and fifty subscribers, pays one hundred dollars.

Other corporations following specified lines of business fare the same as insurance, transportation and transmission companies, paying a privilege tax, either fixed or graduated, on some element of some taxable capacity. The element of

[1] The classification must be made by the Railroad Commission annually, on or before the first Monday of August, and the taxes be paid on or before the first day of December. (See Mississippi Laws, 1898, p. 23.)

[2] This provision is simply a means of reaching through the privilege tax railroads claiming charter exemption from the general property tax.

taxable capacity varies greatly according to the nature of the business. On cotton-gins the tax is fixed; on cotton compresses it varies with baling capacity; on cotton-seed oil mills, with the amount of capital stock. Auctioneers, barber-shops, bicycle dealers, brokers, coal dealers, ferries, hotels, junk dealers, livery stables, meat markets, photograph galleries, restaurants, theaters, warehouses, electric light, gas and water supply companies, pay in proportion to the size of the city, town or village in which they are located. Building and loan associations, fertilizer companies, and stores pay in proportion to the value of their stock. Brick-yards, ice-factories, liquor dealers, lumber yards and saw-mills pay in proportion to their output. Billiard and pool tables, bottling establishments, breweries, bands of gypsies, circuses, cigarette dealers, dealers in deadly weapons, dentists, druggists, guarantee companies, hack-lines, horse traders, lawyers, lightning-rod agents, live-stock insurance companies, piano factories, second-hand clothiers, stave and spoke factories pay a fixed amount.

Pedlers and railroad eating-houses furnish interesting exceptions to the four bases of classification enumerated, *i. e.* location, value of stock, output and fixed amount. Pedlers pay in proportion to their transportation facilities. Thus, a pedler with one horse, or mule, and wagon, is taxed twice as much as a pedler on foot; a pedler with two horses or mules, and wagon, twice as much again. Railroad eating-houses pay in proportion to the number of daily trains making stops for meals. Where two or more passenger trains are running on trunk lines, the privilege tax is $125; where there is only one such train, $50.

However variable may be the basis of assessment, the imposition and collection of the privilege tax are comparatively simple.[1] The law provides that insurance, telegraph, express and sleeping-car companies, building and loan associations and commercial agencies shall pay the tax directly to the state auditor. All other corporations and persons

[1] For provisions relating to, see Mississippi Laws, 1898, pp. 29-33.

obtain their license from the county sheriff. In any case where it is inconvenient to obtain the license from the sheriff, it may be procured from the auditor. The auditor is required to prepare license blanks and issue them to the sheriff of the county, who is held responsible for the collection. Privilege taxes thus collected must be reported monthly and paid into the state treasury as other taxes, and any defalcation by a delinquent collector must be published at once by the auditor. Licenses are good from the day of issue, except in the case of dram-shops, where they date from the granting of the license. No license can be granted in a "dry" county, or where the majority of the legal voters petition the board of supervisors to prohibit the opening of saloons. A failure to exhibit a license on demand is considered a *prima facie* evidence that it has not been paid and that the privilege is unlawfully exercised. For non-payment or forfeiture a penalty is imposed not less than double the tax imposed, or imprisonment in the county jail not more than six months or both.

Under no circumstances can any privilege be taxed by a county or municipality to an amount exceeding fifty per cent. of the state license; and a privilege tax imposed on insurance, telegraph, and sleeping-car companies, building and loan associations, is entirely exempt from county and municipal taxation. With the exception of the fifty per cent. local tax referred to, the privilege-license system in Mississippi is solely a source of commonwealth revenue.

As a supplement of its pension system the state exempts indigent Confederate soldiers and sailors, their wives or widows, from the payment of the tax on all privileges save those on dealing in liquors, cigarettes, deadly weapons, jenny-lind or pool tables, or like contrivances kept for amusement, second-hand clothing, and hotel keeping. Thus, the privilege-license system in Mississippi operates directly as a means of local prohibition and as a source of commonwealth revenue, and indirectly, as a bounty to Confederate soldiers and sailors. As a supplementary fiscal device levied on

general categories, the system is popular and practically beneficent. Especially is this true of the railroad privilege tax.

Until very recently it has been well-nigh impossible to collect any property tax from railroads because of their claims of charter exemption. The privilege tax has been the only way of reaching them. Thus, in 1888, a typical year, the percentage receipts from railroad property amounted to only $210, while the railroad privilege tax aggregated $140,792.

Recent reductions in the rate per mile of the railroad tax imposed,[1] and the legal compulsion placed upon railroads to pay both privilege and percentage taxes, have reduced both the absolute and relative importance of the railroad privilege tax. Thus, in 1898, the percentage receipts from railroads were $109,833, while the railroad privilege tax was only $26,625. It may, however, be confidently predicted that the decline in the importance of the railroad privilege tax is only temporary. An estimate of gross earnings is more satisfactory to all parties concerned as a basis of assessment than valuation of property. An increase in the rate per mile to its old proportions would place the railroad privilege tax on an independent footing, and avoid the double taxation to which railroads are now subjected.

Although regressive, easily shifted and undemocratic in theory, the privilege-license system is warranted in Mississippi by its practical results. It furnishes the state a revenue of over $300,000 per annum, and is regarded favorably by business men as a license charge rather than a business tax. Criticism is to be directed, not against the system *per se*, but against some of the bases of its assessment.

In many instances, the criterion is purely arbitrary, selected without any reference to the ability of the persons

[1] In 1888 the average state railroad privilege tax per mile was $83.33⅓, besides a county railroad privilege tax of $41.66⅔. In 1898, the state railroad privilege tax on first-class roads was only $20, and there was no county tax imposed. (Compare Auditor's Report, 1888, p. 106, with Mississippi Laws, 1898, p. 23.)

taxed. Thus, all fire, accident, and life insurance companies, which are members of any traffic association, are assessed fixed amounts; while non-traffic companies are taxed two per cent. on their gross premiums. With few exceptions, the solvent companies of the state are members of traffic associations; and because of their agreements to maintain rates, the amount of business transacted, gross earnings and other elements of their taxable capacity are utterly ignored. This is a useless display of anti-trust demagoguery.

In other instances, the criteria selected, while not arbitrary, leave room for evasion and bear no relation to earning capacity. Thus, heavily bonded cotton-seed oil mills can escape entirely the tax levied in Mississippi on the capital stock of cotton-seed oil mills. Large cotton warehouses, which pay in proportion to the size of the place in which they are located, may profit at the expense of the smaller competitors located in a larger place. On the basis of taxation according to output, lumber yards having a large output obtained at great expense, may suffer in comparison with those having a smaller output obtained at proportionately less expense. These are merely typical illustrations of some of the practical defects in the bases of privilege assessments in Mississippi.

While it would be hazardous to fix arbitrarily upon a test of taxable capacity applicable to all cases, nothing but good could result from making the bases selected more thoroughly applicable to their particular cases. If the standard cannot be made uniform, it can at least be made correct. This must be done, if the license privilege system in Mississippi is to serve to any extent as a corporation tax.

The Poll Tax

Although Mississippi is aristocratic in its economic substratum, its attitude in regard to the poll tax has always been democratic. The landowners never objected to bearing the burdens of this tax, and they used it as an instrument

to encourage slavery. This was accomplished, as we have seen, by a discrimination in the rate charged "free males of color" and white males. After the abolition of slavery and the enfranchisement of the freedmen, this discrimination was abolished and a uniform rate levied without regard to color or previous condition of servitude. The poll which during the reconstruction period, was as high as $6.00 *per capita*, is now fixed at $2.00 and is imposed on all males between the ages of twenty and sixty years.

The importance of the poll tax in Mississippi may be appreciated from the fact that it is the principal fiscal device of the school districts in the state during the four months' public school term.[1] Furthermore, the payment of the poll tax is made an implied condition of suffrage by that provision in the state constitution requiring two years' residence and the payment of all taxes during that time, as two of the necessary qualifications of an elector.[2]

No concealment need be made of the fact that the poll tax is used in Mississippi as a means of disqualifying the negro in national elections and controlling his vote in local elections. That the poll tax is more important in the state as an adjunct of suffrage than as a source of revenue is revealed by the fact that in 1897 out of a capitation of $529,694, only $250,057 was collected. Property owners are willing to pay a penalty for their ownership of property, in order to maintain white rule to protect their property. However barbarous the poll tax may be as a fiscal anachronism, social conditions in Mississippi are not yet ripe for economic reform in this direction.

Conclusion

The study of taxation in Mississippi reveals much substantial progress, many admirable features and a local genius for practical innovation. Democratic thought has been tempered by economic expediency. Thus, we can trace a

[1] Annotated Code of Mississippi, 1890, secs. 3745 and 4046.
[2] Art. 12, sec. 241.

movement away from the popular principle of the taxation of corporate property by local officials in at least two directions: (1) The property of transportation companies is assessed separately by a special board and according to well-defined rules; (2) Certain classes of corporations, of which banks and railroads are types, are taxed, not solely on their property, but on their property, together with other elements supposed to represent roughly their taxable capacity.

A well-adjusted privilege-license system has been developed, which only needs change in the bases of assessment to become an equitable corporation tax. Much has been done but much more remains to be done. Mississippi has not yet learned how "to pluck the goose—*i. e.* the people—so as to procure the greatest amount of feathers with the least amount of squawking." As contributing something to a satisfactory system of taxation in his native state, the writer submits the following constructive suggestions, based on an objective criticism of the system in vogue:—

1. A graduated tax on all incomes over $500 should supplement the state tax on the real and personal property of individuals. This would have the three-fold effect of decreasing the rate of the general property tax, of increasing revenue, and of reaching those who now escape the tax on personalty.

2. Corporate property in the state should be withdrawn entirely from the scope of the general property tax, and be made subject to a general corporation tax. This is merely a further illustration of the economic principle already partially recognized in Mississippi, that corporations should be taxed separately and on different principles from individuals.

3. The license-privilege system should be converted into a general corporation tax by enlargement and radical changes in the bases of assessment. Although no uniform principle could be applied, gross earnings and volume of business transacted would serve well as general criteria.

4. A State Board of Equalization, composed of five members from different sections of the state, should be created.

This board should be given general powers of adjusting differences of assessment as between different counties and of maintaining a uniform assessment within the same county.

5. That part of the state property tax appropriated for specific local objects—the school fund—should remain in the hands of the county collectors for disbursement; and should be reported not forwarded, as at present, to the auditor, and then prorated back.

6. The maximum and minimum fee system, now used in the remuneration of county assessors and collectors, should be abolished, and the officers should be paid fixed salaries. The salary should be large enough to secure efficiency in service.

7. There should be a tax on corporate charters levied as a percentage charge on the amount of the capital stock. At present only a license fee of $3.00 is charged for the privilege of incorporation, and this is charged without any regard to the amount of capital stock involved, or whether the corporation is organized for profit or not.[1]

[BIBLIOGRAPHICAL NOTE.—1. Laws of Mississippi, 1799-1898. 2. Toulmin's Digest, Natchez, 1897-8. 3. Turner's Digest, Natchez, 1815-16. 4. Poindexter's Revisal, Natchez, 1821-24. 5. Howard and Hutchinson's Digest, New Orleans, 1840. 6. Hutchinson's Code, Jackson, 1798-1848. 7. Sharkey's Code, Jackson, 1857. 8. Proceedings of Constitutional Convention, Jackson, 1861. 9. Proceedings of Constitutional Convention, Jackson, 1868. 10. Campbell's Code, Jackson, 1880. 11. Thompson, Dillard and Campbell's Code (annotated), Nashville, 1890. 12. Reports of State Auditor, 1870-98. 13. Reports of State Treasurer, 1870-98.]

[1] This tax on corporate charters is found in sixteen American commonwealths, most of which possess a corporation tax proper. (Seligman, "Essays in Taxation," p. 175.) Wherever it has been levied as a percentage charge on the amount of capital stock, it has yielded substantial revenue. The Secretary of State of Illinois, in his last annual report, makes the significant statement that, out of the proceeds of this tax of 1897 he paid the expenses of his office and handed the treasurer a balance of over $300,000. The Secretary of State of Mississippi, Col. J. L. Power, in a recent conversation with the writer, said that, "in his opinion, the salaries of all the state officers of Mississippi could be paid by the imposition of a reasonable tax on corporate charters."

V.

TAXATION IN GEORGIA[1]

By LAURENCE FREDERICK SCHMECKEBIER

Economic Characteristics

Georgia has been termed the Empire State of the South, and the variety of its soil and climate affords a certain justification for the term. From the low-lying marsh land along the coast, with its product of sea-island cotton, the country gradually rises through a rolling district in the center of the state to the wooded heights of the mountains in the west with their resources of timber and stores of mineral wealth. Among the states of the Union, Georgia is twelfth in population, fourth in the value of marble products, sixth in granite production, and twelfth in iron production. The general character of the state might be described as rural. There are nineteen cities of three thousand inhabitants and over, but of these only five have a population of more than ten thousand. Before the Civil War agriculture was almost the sole occupation. The war demoralized industrial life, but Georgia was one of the first states to recover from the effects of the great conflict. Since the war, manufactures have been slowly developing, and now the production of cotton goods in the state is considerable. In 1880 the number of spindles in Georgia was 198,656 and at the present

[1] For information received, I desire to express my obligations to Hooper Alexander, Esq., of the Atlanta bar; Hon. John D. Little, Speaker of the House of Representatives; James E. Brown, State Librarian; Forest Adair, Commissioner of Roads and Revenue, and Professor John D. McPherson, of the University of Georgia.—L. F. S.

time (1899) the number is estimated at 524,244. Outside the cities the country is rather sparsely settled, and agriculture is still by far the most important industry.

General Finances

The total receipts of the state of Georgia for the year ending September 30, 1898, were $3,121,216.55. Of this amount $2,588,783.53 or eighty-two per cent. was raised by taxation. Of the remaining $532,433.02, $420,012 was the rental of the Western and Atlantic Railroad; $56,402.22 was received from fees; $56,018.80 was derived from miscellaneous sources. The receipts are presented in detail in the following table:

Total Receipts	$3,121,216.55
By Taxation	2,588,783.53
Rental of Western and Atlantic R. R.	420,012.00
Fees	56,402.22
Miscellaneous Sources	56,018.80
Taxation:	
General Property Tax	$1,909,233.84
Poll Tax	234,431.99
Railroad Tax	215,921.76
Street Railroads	8,279.37
Insurance Companies	56,006.07
Express Companies	3,646.63
Telegraph Companies	3,558.20
Telephone Companies	6,073.32
Sleeping-car Companies	748.24
Liquor Tax	109,408.39
Insurance Agents	7,570.00
Show Tax	6,176.64
Tax on Lands	6,143.50
Tax on Futures	4,950.00
Pistol-dealer's Tax	5,269.40
Tax on Packing-houses	1,260.00
Tax on Brewing Companies	1,260.00
Tax on Sewing-machine Companies	1,600.00
Tax on Sewing-machine Agents	1,010.00
Tax on Artists	1,197.00
Tax on Auctioneers	315.00
Tax on Pawnbrokers	1,440.00
Tax on Specialists	118.80
Tax on Agents	747.00
Tax on Pedlers	2,499.40

The expenditures in detail were as follows:

Education:	
School Fund	$1,393.873.56
State University	26,657.70
State Normal School	12,500.00
School of Technology	26,875.00
North Georgia Agricultural College	6,000.00
Georgia Normal and Industrial College	23,900.00
Academy for the Blind	18,333.31
School for Deaf	34,201.38
School for Colored	4,000.00
Lunatic Asylum	289,550.73
Legislature	83,305.81
Department of Agriculture	10,000.00
Civil Establishment	127,845.83
Library Fund	3,329.88
Fertilizers' Fund	9,290.41
Geological Fund	7,149.67
Military Fund	16,314.53
Penitentiary	13,211.81
Pensions	610,120.00
Printing	16,425.28
Public Buildings	20,000.48
Public Debt	605,034.55
Insurance	8,659.89
Contingent Fund	10,903.36
Taxes refunded	3,424.17
New Code	3,505.55
Solicitor-General	3,330.00
Supreme Court Reports	4,000.00
Miscellaneous	20,520.20
Total	$3,423.488.20
Balance	$120,000.57

As regards indebtedness the finances of the state are in very good condition. The total bonded debt of the state is $8,031,500, a decrease of $2,327,840 since 1890. The debt was incurred mainly in the building of railroads and the endorsement of bonds of railroad companies. Over against this indebtedness the state owns the Western and Atlantic Railroad, which brings in a rental of $420,012, the Northeastern Railroad, and $30,700 worth of other stocks. The total interest charge is $343,880. The state pays seven per cent. on $282,500, four and a half per cent. on $5,-

399,000, four per cent. on $230,000, and three and a half on $2,120,000. The decline in the rate of interest shows that the state's credit is good.

The debt of the state in detail is as follows:

7 % bonds, due 1931	$ 282,500.00
4½% bonds, due $100,000 each year after 1898	1,800,000.00
4½% bonds, due 1912	207,000.00
4½% bonds, due 1915	3,392,000.00
4 % bonds, due 1915	230,000.00
3½% bonds, due 1915	287,000.00
3½% bonds, due $100,000 each year from 1917	1,833,000.00
Total	$8,031,500.00

Development of Taxation

Georgia was the last of the original thirteen colonies, and in many respects the most unpromising. Especially was this true in financial matters. The colony was settled mainly by debtors, and indeed the prime object of its establishment was to provide a place of refuge for those who had fallen under the severities of the English law in regard to debt. Only the perseverance of General Oglethorpe kept the colony from going to pieces, and that large hearted man was compelled to draw upon his private resources, and to pledge his individual credit for conducting the operations necessary to establish the colony. After the surrender of the charter to the Crown, public officers were paid mainly by fees, and a quit rent of nine shillings sterling for every hundred acres was exacted from the inhabitants.

Upon the separation of the colonies from the mother country, the representatives of the people were slow in imposing taxes, and financial matters gave the governor and council much concern. In July, 1783, the council sent an address to the lower house remonstrating against the smallness of the sum proposed in the tax-bill as "inadequate to the great and pressing exigencies of the State." The council urged that a tax of at least one-half dollar should be laid on every negro, mulatto, or other slave; and one-half

dollar on every town lot. The house, however, passed a bill imposing a tax of a quarter of a dollar on every hundred acres of land, a quarter of a dollar on every negro, mulatto, or slave; a quarter of a dollar on every town lot; one dollar on every free negro; and two dollars on every male inhabitant of the age of twenty-one, "who does not follow some lawful profession or mechanical trade, or who does not cultivate, or cause to be cultivated, five acres of land."

In 1796, when Oliver Wolcott made his report on the finances of the states, the same methods were still in operation. It was the characteristic system of the property tax reinforced by the poll tax which has continued to the present day. Lands were divided into districts or classes, and upon each of these a certain amount per acre was imposed as the value for taxable purposes. On such values and on all lots, wharves, and buildings a tax of forty cents per hundred was imposed. Free white male persons and slaves paid a poll tax of thirty-seven and a half cents; free negroes were taxed fifty cents; professors of law and physic, and all factors were taxed four dollars. Negroes brought by sea into the state for sale were taxed ten dollars. Stocks of shopkeepers were taxed twenty cents per hundred; foreign wares sold by factors and brokers, eighteen and three-quarter cents; and the funded debt of the United States, fifty cents per hundred.

In 1805 a tax was laid on banks, the first of its kind in the United States. Banks were taxed two and a half per cent. on their capital stock, and one-half per cent. on their circulation. In 1817 bank stock was taxed thirty-one and a quarter cents on the hundred. In 1820 the stock of the Steamboat Company of Georgia was taxed thirty-one and a quarter cents a hundred. In 1830 lottery-ticket brokers and private bankers were taxed at the same rate. In 1840 bridges, ferries and turnpikes were taxed ten cents per hundred dollars. In 1850 we find the first tax on railroads, a special act being passed for the taxation of each road. The Georgia Railroad was taxed one-half of one per cent.

on the net income of the stock of the road, and any increase of stock was taxed thirty-one and a quarter cents per hundred. The Central Railroad was taxed one-half of one per cent. on the income. The Macon and Western and the Memphis Branch Railroad were each taxed thirty-one and a quarter cents on every hundred dollars of the stock actually paid in. In the same year the poll tax was reduced to twenty-five cents, and the tax on free negroes was raised to five dollars. Carriages were also taxed from fifty cents to ten dollars according to size and number of horses required.

Present Tax System

The present tax system of Georgia is under the supervision and direction of the comptroller-general, who is elected biennially on the first Wednesday of October. Railroad, street railway, telegraph, telephone, sleeping-car and express companies, make their tax returns direct to the comptroller-general. All other property, whether owned by individuals or corporations, is returned for taxation to the "tax-receivers" in each county. Those companies which make their return direct to the comptroller-general also make payment to that officer, while those that make returns to the tax-receivers pay their taxes to the "tax-collectors" in the counties in which the returns are made. The tax rate is fixed by the governor, who is authorized by the legislature to fix a rate up to a certain limit, two years in advance. The maximum rate is always imposed.

Tax-Receivers. The tax-receiver might be called the unit official in the tax system of Georgia, as he is the official in each county who has immediate charge of the assessment of taxes and receives all returns of taxes within the time and in the manner prescribed by law. The taxpayer makes his return to the tax-receiver and the latter is required to receive the returns at any time a taxpayer applies therefor. To facilitate this process he is required to attend in each

militia district in the county at least three times during the time allowed to make returns, and he must give ten days' notice in writing of the several times and places at which he will be present for the purpose of receiving such returns. He must also keep a standing advertisement specifying the day or days when he will be at the county seat for such purpose. After he has received a return he must make a "digest" or detailed report of such return in triplicate, and forward one to the comptroller-general, one to the "ordinary," who performs the duties of a board of county commissioners,[1] and one to the tax collector. In this digest he is required to make a list of all "defaulters," or those persons who have not returned their property for taxation, and to return such property for taxation at double its true estimated value. This is known as the double tax. Furthermore the tax-receiver is required to publish the lists of all defaulters and the amount of their penalty or double tax for thirty days. Upon the basis of the digest deposited with the ordinary the tax-receiver assesses the county taxes according to law and according to the rate per cent. levied by such ordinary. The tax-receiver is under the supervision of the comptroller-general and must conform to such rules as are laid down by that official.

The tax-receivers are elected on the first Wednesday in January. This popular election of tax-receivers suggests an initial criticism of the tax system, as the receivers who

[1] Briefly summarized, the "ordinary" is normally the administrator-general for the county in decedent estates, with those ecclesiastico-judicial functions which at common law pertained to the bishop. In addition to these judicial functions, the ordinary exercises a superintendence of all county business except in so far as the same is vested in the sheriff, the clerk of court, the treasurer, the county surveyor, the tax-receiver, and the tax-collector. Over the four latter he has a large measure of superintendence and visitation, though none of them are directly responsible to him, all being elected by the people. The ordinary is the guardian and custodian of county property, fixes the tax rate, and determines in general the character and amount of county expenditures. [For the above information the writer is indebted to Mr. Hooper Alexander, of the Atlanta bar.]

are thus locally elected are less likely to be free from an inclination to make a low assessment of property than they would be if appointed by the governor or other central authority. The tax-receiver is paid a commission equal to one-half that which the collector receives for collecting the tax. He is required to give bond for one-half the amount of state tax supposed to be due from the county for the year in which he performs his duties.[1]

Tax-Collector. After being assessed by the tax-receiver, the taxes are collected by the tax-collector. This officer is elected in the same manner as the tax-receiver, is sworn and is required to give bond for thirty-three and one-third per cent. more than the state tax supposed to be due from the county in the year for which he is required to give bond. The tax-collector is supposed to supplement the work of the tax-receiver by ascertaining as far as possible all polls and professions, and all taxable property not returned to the receiver or not found in his digest. Upon all such property he collects and pays over the double tax as required by law. The collector also issues executions against all defaulters and insolvents, and places them with the proper officer for collection. The collector is required to give public notice of the time and place of his presence to collect the taxes due, and also of the days on which he will be at the courthouse. He is further required to publish his list of insolvents at the door of the courthouse for thirty days, and also to furnish the election supervisors of the county with the list of all persons who have not paid their taxes. In collecting the tax upon dealers in intoxicating liquors the collector is required to report to the comptroller-

[1] The oath of office of the tax-receiver is as follows: "I swear that I will truly and faithfully perform the duties of receiver of returns of taxable property, or of persons or things specially taxed in the county to which I am appointed, as required of me by the laws, and will not receive any return but on oath or affirmation, and will before receiving returns carefully examine each, and will to the best of my ability carry out all the requirements made upon me by the tax law. So help me God."

general the name of the person or firm paying such a tax, the amount paid and the time of payment. The tax-collectors are required to make monthly returns of all taxes collected, and to pay the money collected into the state and county treasuries, or into banks designated by the governor as state depositories.

General Property Tax

Taxable Property. As in most other American commonwealths the main source of public revenue in Georgia is the general property tax. All real and personal property, whether owned by individuals or corporations, resident or non-resident, is liable to taxation unless specially exempt. This includes all bonds, notes or other obligations for money, of persons in other states, or bonds of other states, or bonds of corporations in other states. All moneyed or stock corporations, unless exempted or differently provided for in their charters, are liable to taxation upon such capital stock as upon other property. All deeds of gift, mortgages or other assignments of property made to avoid the payment of taxes are null and void. The property is always liable for the taxes, and the taxes are a first lien before any other debt or claim. The property enumerated above was taxed in 1898 at the rate of 6.21 mills on the valuation, and the yield was $1,909,233.84.

Exemption. By the act approved December 11, 1878, the following forms of property are declared exempt from taxation: "All public property, places of religious worship and places of burial; all institutions of purely public charity; all buildings erected for and used as a college, incorporated academy or other seminary of learning; the real and personal estate of any public library, and that of any other literary association, used by or connected with such library; all books, philosophical apparatus, painting and statuary of any company or association kept in a public hall, and not held as merchandise or for other purposes of gain or sale; provided, the above-described property so exempted

be not used for purposes of private or corporate profit or income."

Assessment. A complete reassessment of property is made each year, and all property held on the first day of March must be returned for taxation at its market value. The listing system is used in the return of property. This consists simply in the distribution of printed blanks to the taxpayers, who answer under oath the questions thereon. These lists are furnished the tax-receivers by the comptroller-general, and are distributed to the taxpayers on the first of April in each year. The justices of the peace are required to furnish the tax-receiver with a list of all taxpayers in their respective districts. The following are the questions contained in the printed list:

Are you subject to poll tax?
Are you a lawyer?
Are you a doctor?
Are you a dentist?
Are you an agent or firm negotiating loans and charging therefor?
Are you the president of a railroad company?
Are you the superintendent or general agent of a railroad, express, telegraph, telephone, electric light or gas company doing business in this state, the president of which does not reside in this state?
Are you the president of an express, telephone, electric light or gas company doing business in this state?
How many hands are employed by you between the age of 12 and 65 years?
How many acres of land, except wild lands, do you own, or of how many are you the holder, either as parent, husband, trustee, executor, administrator or agent? Where is the same located by number, district and section?
What is the value thereof?
How many acres of wild land do you own or represent by number, district and section?
What is the value thereof?
What is the value of your improved city or town property, including the improvements thereon?
What is the value of your unimproved city or town property?
How many shares in the bank of which you are president and what is the value thereof?
How much capital have you in the bank of which you are president as a sinking fund or surplus fund and undivided profits, and real estate not represented in the value of your stock?

How much money or capital has the building association, or the building and loan association of which you are the president, in loans?

How much on hand?

How much property, real and personal, does the gas or electric light company of which you are president or general manager own, and what is the value thereof?

How much money on hand?

What is the gross value of your notes, accounts or other obligations for money and the market value thereof, whether solvent or partially solvent; whether the same are within or without the state?

The value of your merchandise of all kinds, including fertilizers for sale, on hand?

How many boats, vessels or watercraft of any description do you own, and the value of each?

The amount of capital invested in stocks of companies, other than such companies as are required to be returned by the president or their agents to the comptroller-general?

How much capital invested in bonds, except bonds of the United States and such bonds of this state as are exempt by law from taxation?

How much capital has the manufacturing company of which you are president or agent invested in the manufacture of woolen or cotton fabrics, including lands, and what is the value of your manufactured goods?

What is the value of raw material on hand March 1st?

What is the value of manufactured goods or articles on hand March 1st?

What amount of money, bonds, notes, accounts, choses in action of every kind did you own on March 1st? Value?

What other property of every kind did you own on March 1st? What was the value thereof?

How much capital have you invested in iron-works, foundries, and machine-shops, including machinery and lands?

How much capital have you invested in mining, including lands, and what is your surplus fund?

What is the value of your household furniture, including your tableware, or owned by wife?

What is the value of your kitchen furniture?

What is the value of your office furniture?

What is the value of your pianos, organs or other musical instruments, or owned by wife?

The value of your library, pictures, paintings and statuary, or owned by wife?

What is the value of your sewing-machines, or owned by wife?

The value of your gold watches, or owned by wife or minor children?

The value of your silver watches, or owned by wife or minor children?

The value of your watches made from material other than gold or silver?
The value of your gold and silverware?
The value of diamonds and jewelry worn by owner or wife and minor children?
The number of horses, the value of each?
The number of mules and asses, the value of each?
The number of cattle, the value of each?
The number of sheep, the value of each?
The number of goats, the value of each?
The number of hogs, the value of each?
The value of carriages, wagons and buggies?
The value of agricultural tools, implements and machinery?
The value of cotton, corn and other farm products on hand and for sale?
The value of portable saw mills, gins, engines and other machinery, or of such other machinery, stationary or otherwise, and not returned as part of realty?
What is the value of your turpentine stills and appurtenances?
What is the value of your leases or leased privileges or assets of like character?
Value of guns, pistols, bowie knives and such articles?
The value of other property not herein mentioned?
The value of property owned by the wife and minor children of the taxpayer and not returned for taxes by the owners thereof?
Whether solvent or partially solvent, give the value of your bonds, stocks of non-resident companies or corporations in this state whose capital stock is not returned by the president of such companies or corporations; all notes, accounts, judgments, mortgages, liens and other choses in action of every kind, whether such bonds, stocks, notes, etc., are held by the taxpayer in Georgia or held by some other person for him, either in or out of this state. There shall be no reduction from the value of property returned for taxes on account of any indebtedness of such taxpayer.

The following oath is also required in order to insure the correctness of the return: "I do solemnly swear that I have carefully read (or have heard read) and have duly considered the questions propounded in the foregoing tax-list, and that the value placed by me on the property returned, as shown by said list, is at the true market value thereof; and I do further swear that I returned for the purposes of being taxed thereon, every species of property that I own in my own right or have control of, either as agent, executor, administrator or otherwise; and that in making said return I have not attempted, either by transferring my

property to another or by any other means, sought to evade the laws governing taxation in this state. I further swear that in making said return I have done so by estimating the true worth and value of every species of property contained therein." All freeholders or agents are also required to make returns to the tax-receiver of all persons liable for tax residing on their premises.

Answers to these questions, accompanied by the above oath, must be returned to the tax-receiver of the county wherein the person resides before July 1. If a person fails to make a return, or fails to affix a value to his property, the receiver then makes the valuation and doubles the tax. The ordinary, however, is authorized to relieve a defaulting taxpayer if he can show from good cause that he did not have an opportunity to make the return. If the receiver finds that the return is below the full value of the property, it is his duty to assess the true value within thirty days. The taxpayer must be notified of any increase in his assessment, and if he is not satisfied, the entire valuation is left to three disinterested persons, of whom the taxpayer selects one, the receiver another and these two select a third. The valuation made by these three assessors is final. If any taxpayer has reason to think that any property is returned below its full value, he may lodge a complaint, and the receiver gives notice to the person complained of, and a new assessment is made as in the case of an appeal. If there is any property which is not returned; and the tax-receiver does not know the owner, it is his duty to tax it double and then proceed against the property for the collection of the tax.

Nominally the tax-receiver is required to submit his digest of returns of taxable property in his county to the grand jury of the superior court of that county, who are supposed to review the assessments and to correct any undervaluations they may find in the returns of the tax-receiver. This provision, however, is practically a dead letter. The returns in any one year are the guide of the

tax-receiver in the next year, and if the taxpayer returns his property at less than the year before, the valuation must be submitted to arbitration as described above. If the receiver makes a mistake in his digest it is the duty of the comptroller-general to correct such mistake by making the proper entries in the digest furnished the comptroller-general, and he must notify the ordinary and tax-collector of the county of such mistake and correction.

Defects. Such is the general property tax as it stands on the statute books. The question naturally arises whether such a formidable array of interrogations and the appended oath really secure a just and equitable return of property, or whether the experience of Georgia has been the same as that of other states using the general property tax? It may be stated in reply that the general property tax has worked but little better in Georgia than in the other states where it has been employed. In the first place the tax is inequitable as between individuals and is again inequitable as between the various counties of the state. Such can hardly fail to be the case when the property is valued by the taxpayer. Thus in 1878 cultivated lands under essentially the same conditions were valued in Bibb county at an average of $19.61 per acre, in Richmond county at $13.90, in Chatham county at $14.81, in Muscogee county at $9.18, and in Fulton county at $45.55. Furthermore, in many cases the number of acres returned is lower than the land in possession of the taxpayer. Thus in 1896 eighty-three counties of the state returned 722,205 acres of land less than they did in 1895, and at a moderate estimate this land would be worth two and a half million dollars. In 1897 the acreage of land returned for taxation was 1,177,518 acres less than the actual acreage of the state. In 1896 it was 1,275,932 less. In 1898 the return of land was 158,542 less than in 1897. By taking the highest and lowest acreage returned by each county over a period of six years, there would be shown for the state a difference of 4,885,298 acres.

The comptroller-general in his "Instructions" to the

tax-receivers for the year 1898 called attention to this as follows: "The law relative to the manner of returning lands for taxation is one thing, and the value at which you receive them is another; and while I have given you the law that relates to the former, I especially call your attention to the value at which they should be returned by the taxpayer, and that is, 'at its true and market value.' Our lands are worth a great deal more than they are being returned for taxation, and you cannot be too careful in the discharge of the duties imposed upon you in receiving their returns. . . . I find in some of the digests for 1897 large discrepancies between the number of acres returned for taxation and the number known to be actually located in the counties. In the aggregate these differences ran up several thousand acres in the state, all of which, of course, escape both state and county taxation, thereby contributing to increase the rate of taxation on the property returned and illegally exempting this unreturned property altogether."

There are again wide discrepancies between the valuation of city and town property for municipal taxation and the valuation for state taxation. The valuation of real property in the three cities of Atlanta, Augusta, and Macon on the city digest is $68,486,866, while the city and town real estate on the three county digests aggregates only $51,780,853, showing a difference of $16,706,013. In the cities the valuations are made by assessors, and are much more thorough and accurate. If city and town property were taxed on the same valuation for both state and local purposes this difficulty would be obviated. In regard to this we find the comptroller-general making the same complaint in his "Instructions for 1898," as was quoted by Prof. Ely in his "Taxation in American States and Cities," from the Instructions for 1886, indicating that the evil is one of long standing: "There is a very just complaint against the custom or practice of taxpayers returning this class of property to the receiver of tax returns, for the state and county, at a very much lower valuation than the same property is

returned to the corporate authorities for taxation. It must be manifest to every one that property is worth as much when returned for taxation to the state and county as when returned to be taxed by the cities."

Personal property of all kinds escapes its just share of taxation. All the watches, rings, diamonds, precious stones, plate, etc., in Fulton county, containing the city of Atlanta with a population of over sixty-five thousand, was valued at $108,083 in 1898. As regards merchandise the returns are far worse. In 1896 Tatnall county returned only $500 of merchandise, while Campbell county returned nothing at all, and Worth county returned nothing in 1895. Fulton county, containing the city of Atlanta, the largest distributing center between Baltimore and New Orleans, returned merchandise to the amount of only $3,171,170 in 1898. In Macon a single fire destroyed goods upon which insurance was paid equal to almost a third of the entire amount the city returned for taxation. The fluctuations in the value of merchandise are also startling. Berrien county dropped from $118,690 in 1896 to $415 in 1897, and rose to $125,093 in 1898. Campbell county rose from nothing in 1896 to $40,136 in 1897, while Taliaferro county rose from $1,150 in 1896 to $14,250 in 1897.

As to intangible property such as stocks, bonds, notes, mortgages, etc., the comptroller-general in his "Instructions" for 1898, says: "This class of property, except in isolated cases, is seldom ever returned by the owners thereof for taxation. It has become a very considerable item of the wealth of the state, but has not been returned for taxation." In regard to merchandise, the same officer adds: "From a careful examination of the digests on file in this office, it is evident that such property is not returned as it should be, the aggregate value of such property for the year 1897 being only about seventeen million dollars. This is far below the market value of this property, and I invite your special attention to the returns of this class of property when it is being given in to you this year. I know

that large stocks of commercial fertilizers are being carried in this state from year to year, and I am satisfied that very little of it is ever returned for taxation." As to household property the complaint is as follows: "Perhaps no class of property is so undervalued by the owners when returning it for taxation as household furniture, from the fact, no doubt, that it is regarded as unproductive and therefore should not be valued at its *full market* value. *I am quite sure that a very large percentage of the watches, jewelry, pianos, organs, etc., owned in our state are not returned at anything like their market value, if returned at all.*" That these are standing complaints is evidenced by the fact that almost the same "Instructions" were issued in 1886.

Another criticism of the general property tax in Georgia is the double taxation involved in taxing land at its full value, without allowance for indebtedness, and then taxing the evidence of such indebtedness. It is clear that if the burden of taxation is to be apportioned according to ability, the man with a mortgage or other debt of half the value of his property is not able to pay as much as where the land is unencumbered. The comptroller-general, in his "Instructions" for 1898, called especial attention to the fact that such indebtedness should be taxed: "In purchasing lands on a credit, it is the custom for the purchaser to give to the party from whom purchased notes representing the amount to be paid at the time or times agreed upon by the parties selling and buying; the party selling and taking such notes secures himself by retaining deeds to said lands, and giving parties buying a bond, in which they agree to make titles when purchase money is paid. Those holding such notes must return them to you for taxation, and the party purchasing must return the lands so purchased." The law should be amended so as to make an allowance for indebtedness.

Now if the operation of the general property tax in Georgia has been thus defective, what causes are responsible? Most of the writers on taxation will declare that

the general property tax is inherently bad. The two marked defects of the tax are said to be (1) its lack of universality, that is, the escape of personal property from taxation, and (2) its incentive to dishonesty, in that people make false returns in order to secure a low assessment. But criticism should be positive as well as negative, and a substitute should be offered for that which is condemned. The corporation tax, which is well adapted to the wealthy commonwealths of the north, cannot be applied to the commonwealths of the south where manufacturing is very little developed, and where the country is largely agricultural. The single tax on land can not be justified by an appeal to ethics or to the science of finance. We have left the income tax. Without going into the political and social aspects of the income tax it is hard to see how it can be any more successful than the general property tax. If personal property escapes taxation with such a list of questions under oath as is required in Georgia, and if the number of acres of land is misrepresented, will the great mass of intangible personal property be reached any better by an income tax? As to the charge of being an incentive to dishonesty, the same is true of the income tax and of any other tax where returns are required under oath by the taxpayer. The general property tax, as far as real property is concerned, has the advantage of something tangible to seize upon, and with a properly drawn corporation tax a great deal of the personalty will be reached.

The unsatisfactory results of the general property tax in Georgia are not due so much to inherent defects in the tax as to lack of vigor and to defects in administration. In the first place it is essentially wrong that the tax-receiver should be an elective official, and elected for such a short term as two years. The tax-receiver is naturally anxious for another term of office, as he regards his position as a stepping-stone to another one, and he naturally endeavors to conciliate his constituent by making the burden of taxation as light as possible. It would be contrary to human nature

to expect anything else. An official or a board appointed by the governor or some central authority would be much less open to such influence. Furthermore, an official so appointed would be more attentive to the instructions of the comptroller-general. As the matter stands now the assessment of property by the receivers is a merely *pro-forma* proceeding. The blanks are sent to the taxpayer to be filled in, but the questions provided by the statute are answered in a rambling manner, or they are disregarded altogether and the taxpayer is allowed to lump his estimate under one or two heads.

The omission to answer the questions and the failure of the tax-receiver to require this are so common that they excite no comment, and are taken as a matter of course. Even when the list is filled out, the valuations given are usually those of the year before, and the tax-receiver accepts them without question and does not endeavor to scrutinize them in any way. The taxpayers generally sign the appended oath, but it is never administered as is required by the statute. That the assessment is usually low is shown by the fact that the provision for arbitration in regard to assessment is seldom, if ever, resorted to, and a well-informed correspondent writes me that he has heard of but one instance where the valuation was referred to arbitration. This in itself shows that the valuation is so low that the taxpayer never feels justified in taking an appeal. The provision for the correction of valuations by the grand jury is also never carried out, but is practically a dead letter.

In view of these facts it is not to be wondered at that the law has not given satisfaction. The only matter of surprise is that it has worked as well as it has. No law, no matter how good, will give satisfaction unless it is properly administered. The present list of questions falls by its own weight; it is too awkward and cumbersome. The tax-receivers do not do their duty properly, and the comptroller-general does not seem to be able to force them to it, al-

though he has emphasized it from year to year in almost the same words. The following is from his "Instructions" for 1898:

"See to it, then, that *every* requirement of the law is met in taking the returns of every class of property and from every class of citizens. Many complaints are made to this office by taxpayers of the loose and careless manner of tax-receivers in taking returns. In many instances they charge that the receivers never propound the questions to taxpayers required by law, nor require them to fill out the blank tax list and make oath to the correctness of their return. *This is a violation of law that will not be permitted in future by this office.*" And further: "In order to have a full and fair return of the taxable property, it is absolutely necessary for you to ask each party making the return the questions which I have arranged for you, to be found in these instructions and the tax lists sent with the digests. Such questions I am compelled by law to give you, and they are given for no idle purpose, but are designed to bring out and exhibit the taxable property of the state in the possession of the owners thereof."[1]

The tax-receivers should be appointed by the governor or by an appointing board, which should also have the power of removal. This would enable the comptroller-general to exert greater pressure on the tax-receivers and hold them to a stricter accountability. The assessment of property should also be made by a board of, say three assessors, who should value the property direct or make a strict revision of the returns of the taxpayers, as it is manifestly unfair to allow each person to make his own valuation. Finally, taxation for state purposes in cities

[1] By the act approved December 22, 1898, it is made a misdemeanor for the tax-receiver to neglect to administer the oath, and in addition to the penalty provided in the code for misdemeanors, the offender is fined ten dollars, one-half to go to the informer. It remains to be seen whether this will stimulate the administration of the oath.

and towns should be assessed upon the same valuation as for local purposes.

Capitation Taxes

Poll Tax. Capitation taxes yield the second largest amount derived from taxation. Every male inhabitant of the state, between the ages of twenty-one and sixty years, is subject to a poll tax of one dollar per annum. Blind persons, cripples, and maimed and disabled Confederate soldiers are exempt from this tax. No city or county, or any other corporate authority is allowed to assess or collect any capitation tax whatever, except a street tax, and that after an opportunity is given to work upon the streets. The payment of the poll tax is requisite for the exercise of the suffrage, and this is a source of political demoralization. The negro especially refrains from paying his poll tax, and waits for the politician to pay it for him, which is ordinarily done. There is no way of enforcing the collection of the tax from persons who do not own property, except as a qualification for voting and thus the tax always tends to fall on those who already own property. Furthermore the constitution of the state requires that a voter shall have paid all taxes required of him since 1877. Thus payment for the current year is not sufficient to qualify, but the voter must pay all taxes in arrears. There is a large class of citizens who sometimes pay and sometimes do not, and when they do pay they do so merely for the purpose of voting. But before they can do this they must register and swear that they have paid all taxes since 1877, and hence the tax is a constant incentive to perjury. The pernicious effect of such a system hardly needs any comment. About sixty per cent. of the tax is generally collected. The census of 1890 showed a voting population of 398,122 and the yield in 1898 was $234,431.99. The proceeds are used "for educational purposes in instructing children in the elementary branches of an English education only."

Professional Tax.[1] Every practitioner of law, medicine, or dentistry, presidents of each of the banks of the state, the president of each of the railroad, express, telegraph, telephone, electric light and gas companies doing business in the state, and every architect, and civil, mechanical and electrical engineer is taxed ten dollars per annum. In case the president of any of the companies named does not reside in the state, the superintendent or general agent of such company must pay the tax. No municipal corporation is allowed to levy any additional tax on these professions, but the payment of the tax is prerequisite to practice. This, however, does not insure its payment, and probably not over twenty-five per cent. is paid. The returns for this tax are included in the general property tax.

Corporation Taxes

There is no special law for the taxation of corporations, except those corporations which enjoy specific franchise privileges. Manufacturing and other incorporated companies (except railroad, insurance, telegraph, telephone, express, and sleeping- and palace-car companies) are taxed in the same manner as individuals on the value of their real and personal property, and must return their property for taxation in the county in which the company is located, or where the principal business is carried on. The return must be made under oath by the president or agent of the corporation. In addition to the questions given above the president or agent is also required to answer the following:

What is the nominal value or cost of the real estate of the company you represent, including the buildings thereon?

Second. What is the fair market value thereof?

Third. What is the nominal value or cost of your machinery of every kind?

Fourth. What is the fair market value thereof?

Fifth. What is the value of the real estate not used in the conduct of the business of your company?

[1] A rigid classification would perhaps include this charge under License Taxes rather than under Capitation Taxes.

Sixth. What is the value of raw material on hand on the day fixed for the return of property for taxation?

Seventh. What is the value of the manufactured goods or articles on hand on the day fixed for the return of property for taxation, whether at your principal office or in the hands of agents, commission merchants or others?

Eighth. How much money did your company have on hand on the day fixed for the return of property for taxation, whether within or without the state? How much deposited in bank?

Ninth. State separately the gross nominal value of the notes, accounts, bonds and other obligations for money or property of every kind on hand on the day fixed for the return of property for taxation. State separately the fair market value of each of said classes of property.

Tenth. What other property of every kind did your company own on the day fixed for the return of property for taxation, and what was the fair market value thereof?

The comptroller-general is also empowered to propound any other questions which might secure a fuller return.

Banks and Building Associations. The capital stock of banks is not taxed, but the shares of the stockholders are taxed at their market value in the county where the bank is located at the same rate as real and personal property. The banks are also taxed on their real estate unless the value of the same is represented in the market value of the shares of stock. The undivided profits and surplus are also taxed when these are not included in the value of the stock and buildings.

The tax on general corporations works about as well as does the general property tax on individuals, and in fact corporations are taxed the same as individuals when they should be taxed in an entirely different manner. The sphere of a corporation is in most instances specifically different from that of an individual. The business of a corporation is likely to be scattered over the state and in this fiscal system the entire proceeds of the tax go to the county in which the main offices of the company are located. To reform the tax on corporations and put it on a modern basis the following changes are necessary: In the first place the taxation of corporations should be separated from

the taxation of individuals. Secondly, corporations, like individuals, should be taxed for local purposes on their real estate only, and the real estate should be taxed in the county in which it is located. Under the present system a corporation may have large holdings of property in one county and another county may reap all the benefit. This is obviously unfair and should be remedied. Thirdly, corporations should be taxed for state purposes on their earnings or on their capital and debt, and when this is done only so much of the total earnings or capital should be taxed as is actually received or employed within the state.

Building associations are also taxed upon the market value of their shares of stock on which no advance has been made, at the same rate as other property. This tax is in lieu of all other taxes and license whether state, county or municipal, except a business license by the town or city in which the principal office of the association is located. The returns for these taxes are all included in the returns of the general property tax.

Railroads. Railroads, like other corporations, are taxed on the value of their property at the same rate as other property of the people of the state. The president of the company is required to return to the comptroller-general, under oath, the amount of the property of the railroad, without deducting indebtedness, and the president of the company is then required to pay the tax so assessed to the comptroller-general. Railroad companies operating railroads lying partly in the state and partly in other states, are taxed as to the rolling stock and personal property appurtenant thereto, and which is not permanently located in any of the states through which the road passes, on so much of the whole value of the rolling stock and personal property as is proportional to the length of the railroad in the state, without regard to the head office of the company. If the comptroller-general is not satisfied with the return, and he makes a new assessment not satisfactory to the person making the return, two arbitrators are chosen, one

by the comptroller-general and the other by the officer objecting to the assessment. If these two fail to select an umpire within thirty days, the governor appoints one, and the award of these three arbitrators is final. Street railroads are assessed in the same manner. The receipts from railroads in 1898 were $215,921.76, and from street railroads $8,279.37.

That no deduction should be allowed for indebtedness is eminently proper, as the bonded debt of a railroad is often really a part of its capital stock. But the general property tax is even less applicable to the railroad than to the general corporation. Here again the best form of taxation is that on net earnings, *i. e.* the total annual revenue from all sources minus all actual expenditures except interest and taxes. As noted above, the interest on bonds should not be deducted from the gross receipts as the funded debt really represents earning capacity.

Insurance Companies. All foreign and home insurance companies are taxed one per cent. on all premiums received by them; but mutual, co-operative or assessment fire insurance companies, organized for mutual protection against fire, and receiving no premium other than the assessment of its own members, are not so taxed. If any insurance company does a brokerage business it is taxed upon the capital so employed the same as other moneyed capital is taxed in the hands of private individuals. The returns of insurance companies must be sworn to by the president of the company and forwarded to the comptroller-general on or before the first day of July in each year. The returns embrace the period from May 1 to April 30. The name and address of each agent must be given, the aggregate amount of risks written during the year; the amount of premiums received; and the losses paid and unpaid by agencies. The returns must be itemized and the comptroller-general has power to correct them within sixty days. If this be done the officer making the return has the privilege within twenty days of referring the question at issue

to two arbitrators, who choose an umpire in case of disagreement, and their award is final. In case the company fails to make a proper return, the comptroller-general makes the assessment from the best information he can secure. All home and foreign fidelity and guarantee companies, and other companies furnishing bonds are taxed at the same rate and in the same manner as insurance companies. The returns are included in those of insurance companies. In 1898 the revenue from this source was $56,006.07.

Express and Telegraph Companies. All persons or companies, including railroad companies, doing an express and telegraph business and charging the public, are taxed two and one-half per cent. on their gross receipts. The superintendent or general agent of each telegraph or express company, or the president of each railroad company doing such a business in the state is required to make a quarterly return, under oath, to the comptroller-general on the last day of March, June, September, and December in each year, showing the full amount of gross receipts during the quarter ending on that date. The tax is also to be paid at the same time as making the returns. If any officer, whose duty it is to make such returns, fails to do so within thirty days of the required time, such person may be indicted for a misdemeanor, and punished by fine and imprisonment in the discretion of the court. In 1898 the tax received from express companies was $3646.63, and that received from telegraph companies was $3558.20.

Telephone Companies. Every telephone company or individual operating telephones is required to pay a tax of one dollar a year for each telephone station or box, rented or used by subscribers. The superintendent or general manager is required to make returns under oath, and to make payments to the comptroller-general on the same dates as the officers of express and telegraph companies. In 1898 the revenue from this source was $6073.32.

Sleeping-Car Companies. Sleeping-car companies are

taxed at the regular tax rate imposed upon other property in the state of Georgia in the same proportion to the entire value of such sleeping cars that the length of lines in the state bears to the length of lines of all railroads over which the sleeping cars are run. The returns are made to the comptroller-general by the president or person in control of the sleeping cars in the state. The comptroller-general may frame such questions as will elicit the information sought, and the answers to these questions must be made under oath. If the officers fail or refuse to answer the questions addressed to them, the comptroller-general obtains the information from such sources as he may, and he then assesses a double tax on such sleeping cars. If the taxes are not paid the comptroller-general issues execution against the owners of such cars, which execution may be levied by the sheriff of any county of the state upon the sleeping cars of the owner who has failed to pay the required taxes. In 1898 the yield from this source was $748.24.

License Taxes

Georgia, like most other southern states, imposes a license tax on a number of occupations. These are generally specific in amount, and are laid both for revenue purposes and as an aid to police regulation. License taxes have been imposed in the state ever since its earliest day and will probably long continue as an auxiliary to more important taxes.

Liquor License. All dealers in spirituous or malt liquors, intoxicating bitters or brandy fruits or domestic wines, are taxed two hundred dollars for each place of business in the county where the same are sold. The tax does not relieve the dealers from any local or prohibitory law, and it does not apply to domestic wines manufactured from grapes or berries purchased by or grown on lands owned, leased or rented by the dealer. All liquor dealers must register their names before the ordinary of the county in

which they propose to sell spirituous or malt liquors. The ordinary then notifies the comptroller-general and the collector of taxes for the county. When the person or firm registers it is required to pay the tax imposed by the General Assembly for that year. To fail to register is a misdemeanor punishable by fine or imprisonment. The proceeds of the tax are used for educational purposes, and in 1898, when the tax was one hundred and fifty dollars, they amounted to $109,408.39.

Insurance Agents. Every local insurance agent or broker doing business in the state is taxed ten dollars for each county in which he may solicit business. Every traveling or special or general agent of life, fire, accident, or other insurance company doing business in the state, is taxed fifty dollars, and the tax must be paid before the agents are allowed to act for their respective companies. This tax is not required of the agents of assessment life insurance companies or mutual aid societies, nor of railroad ticket agents selling accident insurance policies, nor of agents of industrial life insurance companies writing industrial life insurance, the premiums of which are payable in weekly instalments not exceeding $1.05 per week. For such agents as are required to pay the tax, the receipt of the comptroller-general, together with his certificate, constitutes their license to transact business for their companies. In 1898 this tax yielded $7570.

Show Tax. Circus companies, in or near cities of twenty thousand inhabitants or more, pay a license tax of one thousand dollars; in or near cities or towns of five thousand inhabitants and under twenty thousand, four hundred dollars; in cities or towns of four thousand inhabitants and under five thousand, three hundred dollars; and in cities or towns of less than four thousand inhabitants, two hundred dollars for each day they exhibit. All dog or horse shows and shows of like character, beneath a tent, canvas or enclosure, charging an admission fee of more than twenty-five cents, pay a tax of thirty dollars for each day they exhibit,

and those charging less than twenty-five cents pay a tax of ten dollars for each day they exhibit. All shows and exhibitions (except such as are histrionic, musical, operatic, and elocutionary) including the side shows accompanying circuses, pay fifty dollars in every city or town of five thousand inhabitants; forty dollars in cities or towns of four thousand inhabitants and less than five thousand; and thirty dollars in towns of less than four thousand inhabitants. The receipts go for educational purposes, and in 1898, when the tax was somewhat lower, amounted to $6176.64.

Tax on Games. Every person or firm who keeps or holds for hire or sale any billiard, pool, or other table of like character, is taxed one hundred dollars for each county in the state in which such person or firm does business. Every keeper of a pool, billiard or bagatelle table kept for public use is taxed twenty-five dollars for each table. Every keeper of any other place for the performance of any game or play, and the keeper of any flying-horses is taxed twenty-five dollars in each county. Every keeper of a ten-pin alley or shooting gallery, kept for public pay, is taxed twenty-five dollars for each place of business. In 1898 the receipts from these taxes were $6143.50.

Pistol Tax. A tax of twenty-five dollars is imposed on all dealers in pistols, toy pistols, shooting cartridges, pistol or rifle cartridges, dirks, bowie-knives, or metal knucks, for each place of business in the county where the same are sold. In 1898 this tax yielded $5269.40.

Tax on Futures. Every individual, firm, or agent engaged in the business of buying and selling farm products, etc., not intended for *bona fide* sale and delivery, but for future delivery (commonly called futures) is taxed one thousand dollars per annum in each county in which said business is carried on. In 1898 this tax yielded $4950.

Packing-houses and Brewing Companies. Packing-houses are taxed one hundred dollars in each county where the business is carried on. In 1898 this tax yielded $1260. Brewing companies are taxed three hundred dollars, and

all others who are engaged in the sale of beer, and do not pay the tax as liquor dealer described above are taxed three hundred dollars for each place of business in each county in which they carry on business. In 1898 this tax yielded $1260.

Bicycle and Sewing-Machine Companies. Every sewing-machine company, and all wholesale and retail dealers in sewing machines selling machines manufactured by companies that do not pay this tax, are required to pay two hundred dollars for the fiscal year or fraction thereof. Wholesale and retail dealers are required to pay the tax for each brand of sewing machines sold by them, unless the manufacturer of such a machine has paid the tax. Furthermore, sewing-machine companies are also taxed twenty-five dollars a year for each agent in every county in which he may do business. Bicycle manufacturers, and all wholesale and retail dealers selling bicycles manufactured by companies that have not paid this tax, are required to pay a tax of one hundred dollars for the fiscal year or fractional part thereof. Before beginning business both sewing-machine and bicycle manufacturers are required to register their names with the ordinary of the county in which they do business and exhibit their license from the comptroller-general. A failure to comply with these provisions is a misdemeanor punishable by fine or imprisonment. In 1898 the tax on sewing-machine companies yielded $1600, and that on the agents of the companies $1010. The tax on bicycle manufacturers is imposed for the first time in 1899.

Miscellaneous License Taxes. Every daguerran, ambrotype, photographic or similar artist is taxed ten dollars, and the tax is required of them in only one county. Every person carrying on the business of auctioneer is taxed twenty-five dollars for each county in which he carries on business. Pawnbrokers are taxed fifty dollars for each place of business. All itinerant doctors, dentists, opticians, or specialists doing business in the state are taxed ten dollars for each county in which they may do business.

Itinerant lightning rod agents are taxed fifty dollars for each county in which they may do business, but this tax is not required of any indigent or disabled Confederate soldier. Dealers in cigarettes are taxed five dollars for each place of business. Every proprietor or owner of any park where baseball or any similar game is played and where admission fees are charged is taxed fifty dollars for each place, but in places of less than ten thousand inhabitants twenty-five dollars is paid. Emigrant agents, or the employer or employee of such agents, are taxed five hundred dollars for each county in which the business is carried on. This is a prohibitory tax, as there is no return for it in the report of the comptroller-general. Every agent of a matrimonial, natal, or nuptial company is taxed one hundred dollars for each county in which he may do business. Railroad-ticket brokers are taxed fifty dollars for each place of business. All mercantile and collection agencies, and commercial agencies are taxed fifty dollars in each county where they have established an office. Firms and agents negotiating loans and charging therefor are taxed ten dollars for each county in which they carry on business. Each person or firm engaged in making abstracts in cities or towns of twenty thousand inhabitants or over is taxed twenty-five dollars; in cities or towns of ten thousand inhabitants and less than twenty thousand the tax is ten dollars; and in cities and towns of less than ten thousand inhabitants the tax is five dollars. But this tax is not required of lawyers who have paid the professional tax required of them. Detective agencies are taxed fifty dollars for each place where they have an office. Pedlers of agricultural implements who have not a fixed place of business are taxed twenty-five dollars for each county. Clock pedlers are taxed one hundred dollars in each county in which they do business. Traveling vendors using boats for the purpose of selling goods on the waters of the state are taxed fifty dollars for each county in which they sell their wares. This tax is a lien on the boat and its contents with-

out regard to ownership. Every vendor of patent or proprietary medicines, special nostrums, jewelry, paper, soap or other medicines is taxed fifty dollars in each county in which he offers such articles for sale. Pedlers of stoves or ranges are taxed two hundred dollars for each county in which they do business. Traveling vendors of patent churns and patent fences, and the patent rights of the same are taxed ten dollars in each county in which they offer such articles for sale. Each company of traders or fortune tellers, usually known as "gypsies," are taxed twenty-five dollars in each county in which they carry on business. In 1898 the receipts from the most important of these taxes were as follows: artists, $1197; auctioneers, $315; pawnbrokers, $1440; specialists, $118.80; agents $747; pedlers, $2499.40.

Conclusion

The general property tax must continue for many years to be the main resource in the tax system of the state of Georgia. The reforms necessary to the better operation of that tax have been indicated above, but it might be better to summarize all such suggestions in this place: The official assessing taxes should not be elected, but should be appointed by the governor or other central authority; the listing system should be carried out in the spirit of the law or it should be abolished altogether; the administration should be centralized, and the *personnel* of the staff should be rigidly examined. Where officials do not carry out the orders of their superiors it is impossible to make any system work properly. In regard to the tax on corporations the following reforms are recommended: The taxation of corporations should be separate and distinct from that of individuals; corporations should be taxed for local purposes on their real estate only, and for state purposes on their earnings or on their capital stock and debt. If it is financially possible the poll tax should be abolished, as it is antiquated and acts as an incentive to fraud and perjury. In

regard to new taxes the most desirable that can be recommended is that of a tax on inheritances, and also a tax on the commissions of executors and administrators. The simplicity of these taxes and the utter impossibility of evasion makes them the most desirable of taxes. A bonus on charters and franchises might also add an appreciable sum to the year's receipts.

It was confidently expected that the last legislature (1898) would make material changes in the revenue laws, but with the exception of imposing a few additional license taxes and increasing the amount of others, the legislature did nothing. A proposition to tax all dogs over six months old at one dollar a head caused a hot debate in the House of Delegates. It was claimed that this tax would put $250,000 in the state treasury, but one of the speakers predicted that if the bill passed, "the next gale that sweeps the deck of the grand old ship of the state of Georgia will waft to our ears the wail of the statesmen out of a job." In the face of such a dire prophecy the bill failed for want of a constitutional majority.

The tax rate in the state of Georgia has risen steadily from 2½ mills in 1883 to 6.21 mills in 1898, and at present the state is confronted by the prospect of a deficit. During the period mentioned above the taxable basis has increased from $306,921,355 to $411,813,911 or about one-third, while the tax rate has almost tripled. When the tax rate increases in inverse proportion to the taxable basis there is a certainty that a reform of the fiscal machinery is necessary. A primary difficulty is the lavish attitude of the legislature with respect to appropriations. An exceptionally well-informed observer makes the following statement concerning the pending financial difficulties: "Shallow and flippant talkers ascribe this to the unascertained class of people known as tax-dodgers. I am satisfied that if all the tax-dodgers were made to pay up their full share there would be no deficit, but I do not think the tax-dodger is the cause of the difficulty so much as the fact that the legislators . . . have

appropriated money without the wherewithal to pay. The state seems at present to be divided into two factions. One thinks that the remedy is to cut down appropriations, the other thinks that the remedy is to catch the dodger. The truth is that the dodging has gone on all the time as much as now. It has no reference to the present trouble. The present trouble will have to be secured by economy in expenditures. The catching of the tax-dodger and equalizing of tax burden is something that it likewise needs."

With a careful limitation of expenditures, and the reforms indicated above, and a strict enforcement of the laws that are provided, the state ought to obtain sufficient revenue to meet all its expenses without a crushing burden of taxation. Nothing is more demoralizing and pernicious than the non-enforcement of the laws that stand on the statute books.

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